

RAILROAD  
CHARTERS AND MORTGAGES  
OF THE  
Rutland & Burlington Railroad Line.

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APPENDIX:  
RAILROAD LAWS OF VERMONT,  
TO 1862.

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RUTLAND:  
TUTTLE & GAY, BOOK AND JOB PRINTERS.  
1863.

THE SHELDON  
ANTIQUE STORE  
MIDDLEBURY

# RAILROAD

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OF THE

### Rutland & Burlington Railroad Line.

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## AN ACT TO INCORPORATE THE CHAMPLAIN AND CONNECTICUT RIVER RAILROAD COMPANY.

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21. This act in force from Nov. 1, 1843.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows:*

SEC. 1. Daniel Kellogg, Calvin Townsley, Joseph Steen, William Henry, Nathaniel Fullerton, Abraham Adams, Abe Foster, Jeremiah Dow, Willis Hodges, George T. Hodges, Luther Daniels, Samuel H. Kellogg, John A. Conant, Ebenezer N. Briggs, Rufus Wainwright, Harvey Bell, William Nash, John N. Pomeroy, Willys Lyman, Timothy Follett, Ezra Meech, Jehazial Sherman, and Samuel L. Strong, and their associates and successors, are constituted a corporation, by the name of Champlain and Connecticut River Railroad Company, and by that name may sue and be sued, may have a seal, and shall have all the rights incident to corporations, for the purpose of constructing a railroad from some point at Burlington, thence southwardly through the counties of Addison, Rutland, and Windsor or Windham, to some point on the west bank of Connecticut River, as such company shall designate; for the transportation of persons and property by steam or horse power.

SEC. 2. If said corporation shall not, within seven years, commence the construction of said railroad, and expend thereon at

least the sum of five thousand dollars, and shall not, within fifteen years, complete and put in operation said road, then said corporation shall cease and this act become void.

SEC. 3. The capital stock of said company shall be one million of dollars, which may be increased to an amount sufficient to complete said road and furnish all necessary apparatus for conveyance, which shall be divided into shares of one hundred dollars each, and shall be deemed personal property, and transferable in such manner as said corporation shall by their by-laws direct.

SEC. 4. Timothy Follett, John A. Conant, George T. Hodges, Luther Daniels, and Calvin Townsley, shall be commissioners, whose duty it shall be, within five years, to open books for receiving subscriptions to the capital stock of said company, at some convenient place at Rutland, Burlington and Brattleboro', and such other places as the commissioners shall direct; and twenty days' notice shall be given by said commissioners, of the time and place of opening said books, by publishing the same in some public newspaper printed in each of the counties of Chittenden, Addison, Rutland and Windsor or Windham; and as soon as said stock shall be subscribed, shall give notice in like manner for a meeting of the stockholders, at such time and place as they shall order, for the election of nine directors. And such election shall then and there be made, by such of the stockholders as shall be present, either in person or by proxy, each proprietor being entitled to as many votes as he holds shares; provided they do not amount to more than one-fourth part of the whole number. And the commissioners shall be inspectors of said election, and shall certify the names of those duly elected, and deliver over to said directors the subscription books and other papers. And said directors shall then proceed to elect from their number a president and vice president, and so at all subsequent elections of directors. And the time and place of holding the first meeting of the directors shall be fixed by the commissioners; and a new election shall be made annually, at such time and place as the directors shall appoint, giving twenty days notice of the same, by publication in one newspaper printed in each of the counties aforesaid. And said directors may cause such examinations and surveys of said road to be made as they shall deem necessary, commencing at some suitable place at Burlington, thence extend-

ing through the counties of Addison, Rutland and Windsor or Windham, by way of Vergennes, Middlebury, Rutland, Shrewsbury, and Mount Holly or Weston, to such point on the west bank of Connecticut River as is deemed expedient. And when said road shall be surveyed, the directors shall certify the same under their hands and seals, one of which certificates shall be recorded in the town clerk's office of each town through which said road passes, which road, so surveyed and certified, shall be deemed the line upon which said road is to be constructed, as hereinafter mentioned. And the corporation may make such alterations from time to time, in the course of said road, as they shall deem expedient, causing a certificate of the same to be recorded in the office of the town clerk [of the town] in which such alteration is made, the expenses of which surveys, and all incidental expenses relating thereto, shall be paid by said corporation.

SEC. 5. The vice president shall preside at all meetings of the directors in case of the absence or resignation of the president, and may exercise such powers and functions as the corporation shall by their by-laws provide.

SEC. 6. If it should happen at any time that an election of directors should not be made on the day it ought to have been, pursuant to this act, said corporation shall not for that cause be dissolved, but the election may be held at any other time provided for by their by-laws.

SEC. 7. Seven directors shall form a board, who shall be competent to transact all the business of said corporation, and shall have power to make and prescribe by-laws and regulations for the proper management and disposition of the stock, property and effects of said corporation, the transfer of shares, conduct of their officers, election of directors, and all other matters appertaining to said corporation, and shall have power to appoint a clerk and treasurer, who shall give bonds to said corporation, with sureties to the satisfaction of the directors, in a sum not less than twenty thousand dollars, for the faithful discharge of his trust, and to establish such salaries for the officers of said corporation as they deem proper. And said corporation are hereby authorized, by their agents, surveyors and engineers, to enter upon said route, designated as aforesaid, and it shall be lawful for said corporation to enter upon and take possession

of all such lands and real estate as is necessary for the construction and maintenance of their railroad and the requisite accommodations appertaining thereto; and may receive, hold and take, all voluntary grants and donations of real estate, as shall be made to said corporation for the benefit of said company.

All lands thus entered upon and used by said corporation, which are not gifts or donations, shall be purchased by said corporation, of the owner or owners of the same; and in case the parties disagree upon the price of said lands, and before making any portion of said road upon such lands, it shall be the duty of the Judges of the County Court of the county in which such lands lie, to appoint three disinterested commissioners, who shall determine the damages which the owner or owners of said lands so entered upon may have sustained, or shall be likely to sustain, by the occupation of the same; and upon payment of such damages, with the expenses attending the appraisalment, the said commissioners being allowed three dollars each, per day, while thus employed; or upon said corporation depositing in any bank, in either county through which said road passes, to the credit of the person or persons to whom an award may have been made, the amount of said damages, with the expenses aforesaid, the proper officers of said bank giving notice to such person or persons, by letter, of such deposit: then said corporation shall be deemed to be seized and possessed of such lands so appraised by said commissioners.

And it shall be the duty of said commissioners to give fifteen days' notice of the time and place of such appraisalment, to the owners or occupants of the lands to be appraised; and, after the appraisal, shall, as soon as may be, deliver to said corporation a written statement of the awards by them made, with a description of the lands appraised, which shall, within sixty days, be recorded in the office of the town clerk [of the town] in which said lands lie; and in case any owner or owners of lands taken by said company shall be married women, infants idiots, or insane, or shall reside without this state, in such case said corporation shall cause the damages to be ascertained in the manner above prescribed, and shall pay the amount of said last mentioned damages to the owners respectively, whenever the same shall be lawfully demanded, with the interest, at the rate of six per cent. per annum, which amount and interest shall be

a specific lien on the real estate of said corporation, and shall have a preference to any other demand against said corporation.

SEC. 8. Should said corporation, or the owner of any lands, feel themselves agrieved by the decision of the commissioners aforesaid, either party may, within ninety days from the making said decision and notice thereof, or from the removal of the disabilities in the preceeding section mentioned, or from the return of such non-resident, appeal to the county court in the county in which said lands or other property lie, and the decision of said court shall be final; and said court shall tax costs for or against either party, as they shall judge equitable.

SEC. 9. Said company may build and use a double or single track upon said road, as shall be determined by said company.

SEC. 10. Toll is granted for the benefit of said corporation upon all passengers and property which may be conveyed or transported upon said road, at such rate per mile as may be established from time to time by the directors.

Provided, the Supreme Court, at any stated session thereof, holden in either of the counties through which said road passes, on application of ten freeholders in any town through which said road passes, may alter or establish the rate of toll and price of transportation upon said road, for a term not exceeding ten years at any one time, and in such manner that said corporation shall not receive less than ten per centum per annum on the amount of capital stock, including all expenses of said corporation for the first fifty years after said corporation shall commence taking toll on said road; and in such manner that said corporation shall not receive less than six per centum per annum on the amount of capital stock, including all expenses of said corporation thereafter.

SEC. 11. The directors of said corporation may erect toll-houses, establish gates, appoint toll-gatherers, and demand toll upon said road, when completed, or upon such parts thereof as shall, from time to time, be completed; and shall keep just and true books and accounts of all expenditures made in building and keeping in repair said rail road, and also of all the income arising from said road, which book shall at all times be open to the inspection of any committee of the Legislature, or of the Supreme Court; and any such committee may examine the officers of said corporation, under oath, touching the receipts and expenditures of said corporation.



SEC. 12. Said corporation shall keep constantly exposed to view, at all places where they have toll-houses or gates, and at all public places where they receive passengers or freight, a sign, or handbill, with the rates of toll legibly written or printed thereon.

SEC. 13. If any person shall wilfully, maliciously, or wantonly, obstruct the passage of any carriage on said road, or in any way injure or destroy said road, or any part thereof, or any thing belonging thereto, or any material or implement, employed in the construction thereof, he, or any person or persons assisting, aiding or abetting in such trespass, shall forfeit and pay to said corporation, for every such offence, treble damages, as shall be assessed before any court proper to try the same; and such offender or offenders shall be liable to indictment by the grand jury of the county within which such trespass shall have been committed, for any offence contrary to the above provisions, and on conviction thereof, before such county court, shall pay a fine, not exceeding one hundred dollars, and not less than thirty dollars, to the use of the state.

SEC. 14. If said railroad shall cross any private way, said corporation shall so construct the same as not to obstruct the safe and convenient use of said private way; and if said rail road shall not be so constructed, the party agrieved may have action on the case in any court proper to try the same, and recover reasonable damages for such injury; and if said railroad shall cross any canal, highway, or turnpike, the same shall be so constructed as not to impede or obstruct the safe and convenient use of such canal, highway, or turnpike, and said corporation may raise or lower such turnpike, highway, or private way, so that said railroad, if necessary, may pass under or over the same. And if said corporation shall raise or lower any such turnpike, highway, or private way, and shall not so raise or lower the same, as to be satisfactory to the proprietors of said turnpike, or to the selectmen of the town in which said highway or private way is situated, said proprietors, or selectmen, may require, in writing, of said corporation, such alteration or amendment as they may think necessary; and if the required amendment or alteration be reasonable and proper, and said corporation shall unnecessarily neglect to make the same, such proprietors or selectmen may make such alteration and amendment, and may

prosecute to final judgment and execution, in any court proper to try the same, an action of the case against said corporation, and shall therein recover a reasonable indemnity in damages, for all expenses occasioned by making such alteration, with costs of suit. And if said railroad shall intersect or cross any stream of water, or water course, said corporation may construct the same across a stream or water-course, provided they restore said stream or water-course to its former state, or in a sufficient manner, not to impair its usefulness; and said corporation shall build and maintain a sufficient fence upon each side of their rail road, through the whole route thereof.

Provided, that nothing in this act contained shall be so construed as to prevent the crossing of said railroad, with teams or otherwise, in a manner not calculated to injure the same.

SEC. 15. The state may authorize any company to enter with another rail road, at any point of the road herein granted, paying for the right to use the same, or any part thereof, such a rate of toll as the Legislature may hereinafter prescribe, and complying with such rules and regulations as may be established by the company hereby incorporated.

SEC. 16. The Legislature may, at any time, during the continuance of this act, after the expiration of fifty years from the opening for use of said road, and not before, purchase of said corporation the said rail road, and all the property, rights and privileges thereof, by paying therefor the amount expended in making the same, the expenses of repairs, and all other expenses relating thereto. And, in case at the purchase, said corporation shall not have received an income equal to ten per centum per annum on the original costs, over and above the charges and expenses relating thereto, the Legislature shall pay said corporation such additional sum as, together with the tolls and profits of every kind received from said road, will be equal to ten per centum per annum on the cost of said road, from the date of the payment thereof by the stockholders of said corporation, to the time of such purchase.

SEC. 17. The directors may require payment of the sums subscribed to the capital stock, at such times, and in such proportions, and on such conditions, as they shall deem best, under the penalty of forfeiture of all previous payments thereon; and shall give notice of the payments required, the time and place

where the same is to be paid, at least thirty days previous thereto, in a newspaper published in each of the counties through which said road passes.

SEC. 18. The commissioners may, at the time of subscription of any person for the capital stock of said corporation, require payment by the person subscribing, of such sums towards each share as they may deem best, and unless the same shall be paid, the subscription shall be void; and in case a greater amount of capital stock shall be subscribed than the sum of one million dollars, the commissioners shall distribute the stock in such manner as they shall deem equitable and just.

SEC. 19. The office of the clerk of said corporation shall be kept within some one of the counties through which said road passes.

SEC. 20. Nothing in this act shall authorize said company to construct a rail road in the valley of Connecticut river, so as to interfere with the construction of any other rail road that is now, or may hereafter be, authorized to be made in said valley, nor to prevent the crossing of any other rail road chartered by this state.

SEC. 21. This act shall take effect from and after its passage.  
Approved Nov. 1, 1843.

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No. 3 of 1844.

AN ACT IN ADDITION TO AN ACT INCORPORATING  
"THE CHAMPLAIN AND CONNECTICUT RIVER  
RAILROAD COMPANY," APPROVED NOVEMBER 1,  
1843.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. Samuel Barker, William Nash, Ambrose L. Brown, William Henry and Henry N. Fullerton. shall be Commissioners with the persons named in section four of said act, to receive subscriptions to the Capital Stock of said Company; and when two thousand shares shall be subscribed, the Commissioners may

give notice to the Stockholders to meet for the election of Directors, according to the provisions of said section four.

SEC. 2. Said Company may enter upon any lands in the vicinity of said railroad, for the purpose of procuring earth, sand, gravel or stone for the construction or repairs of said railroad, subject always to the same provisions and liabilities contained in sections seven and eight of said act, for ascertaining the damages which the owner of lands so entered upon shall have sustained, or may be likely to sustain by reason of such entry.

SEC. 4. Said company may unite with any other company or companies in this State, or in the States in New Hampshire and Massachusetts, which are or may be empowered to construct a railroad from the city of Boston, by the way of Fitchburgh, in the State of Massachusetts, to the eastern termination of said road, upon such terms and under such restrictions as said companies may mutually prescribe; or said Company may enter into such contract with such other companies for regulating the running of said railroads, and the rates of compensation to be made to each of said companies as they may deem expedient, not inconsistent with the laws of this State. And said company may unite or contract with any other company chartered by this State or any other State, whose railroad shall enter upon, or be in any way connected with, said Champlain and Connecticut River Railroad, as aforesaid.

SEC. 5. All the expenses which have been or shall be incurred in exploring and surveying said railroad route, shall be paid by said company to such persons as shall be entitled to the same; or the commissioners may consider and treat such expenses as part payment towards the stock of said company, according to the election of the persons to whom such expenses may be due, or by whom they may have been incurred.

SEC. 6. The following proviso shall be added to section fifteen of said act, to wit: Provided that no other corporation shall enter upon said Champlain and Connecticut River Railroad with any motive power, unless said Champlain and Connecticut River Railroad Company shall refuse to draw over their road, or some part thereof, the cars of such other Railroad Company which may be authorized to enter with their railroad upon the said Champlain and Connecticut River Railroad.

SEC. 7. If said railroad shall not be wholly completed in the

time limited by the act to which this is in addition, yet said act shall remain in full force for such part or parts ~~of~~ said railroad as shall be completed within said time.

SEC. 8. This act shall take effect from its passage.

Approved October 31, 1844.

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No. 27, OF 1845.

AN ACT TO AMEND "AN ACT TO INCORPORATE  
THE CHAMPLAIN AND CONNECTICUT RIVER  
RAILROAD COMPANY."

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. The act to incorporate the Champlain and Connecticut River Railroad Company, approved November 1, 1843, and all acts in addition to, or amendment of the same, shall be considered public acts, and shall be construed favorably and beneficially for all the purposes for which they were enacted.

SEC. 2. The number of directors of said company shall hereafter be thirteen ; a majority of whom shall constitute a quorum for the transaction of business ; and such directors shall be elected in the manner, and have the powers, and perform the duties, prescribed in the act of incorporation ; provided always that, in case of the death, resignation, or refusal to serve, of any one or more of the directors thus elected, the vacancy thus occasioned may be supplied by the remaining directors, by an election to fill said vacancy.

SEC. 3. The said company shall have the right to receive and collect toll or compensation at such rates as the directors may from time to time prescribe and establish, for the conveyance and transportation of all passengers and freight over their road, or any part thereof ; provided, the supreme court, at any stated session thereof, in either of the counties through which the road shall pass, on application of ten or more freeholders in any town on the line of said road, may alter the rates of toll established by the directors, and prescribe and establish such other rates, for a term not exceeding ten years at any one time, as said court may

judge reasonable, and in such manner that the income of said company shall not be reduced below twelve per cent. per annum, on the amount of its capital stock, after deducting all expenses.

SEC. 4. The directors shall keep just and true books and accounts of all expenses made in building and keeping in repair said railroad, and also of all the income arising from said road, which books shall at all times be open to the inspection of any committee appointed by the legislature for this purpose. And such committee may examine the officers of said corporation, under oath, touching the receipts and expenditures of said corporation.

SEC. 5. The tenth, eleventh, and twelfth sections of said act of incorporation are hereby repealed.

SEC. 6. Said corporation shall transport the United States' mail over the road of said company, by its regular trips. And the supreme court shall, on application for that purpose, fix the price for which it shall be so transported, to and from any different points on said road, which shall continue to be the price until the same shall be altered by said court.

Approved, November 5, 1845.

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No. 21 of 1847.

AN ACT IN ADDITION TO, AND IN AMENDMENT  
OF, AN ACT ENTITLED "AN ACT TO INCORPORATE  
THE CHAMPLAN AND CONNECTICUT RIVER  
RAILROAD COMPANY."

*It is hereby enacted by the General Assembly of the State of Vermont, as follows:*

SEC. 1. The corporate name of the Champlain and Connecticut River Railroad Company, is hereby changed to, and the same shall hereafter be known and called by the name of the Rutland and Burlington Railroad Company, and all contracts hereafter made, and all suits hereafter prosecuted or defended, shall be made, prosecuted or defended in said last mentioned name.

SEC. 2. The said corporation shall have power to construct a branch of their railroad from some point on the main line of said road, at or near the city of Vergennes, to some point on the navigable waters of Otter Creek, below the lower falls of said creek at said city of Vergennes, and for that purpose said corporation may enter upon, use and occupy any lands required for said branch, or for wharves, depots, or other buildings required for the use and occupation of said branch, with the same rights and powers, and subject to the same duties and responsibilities as is provided in said act of incorporation, and acts in addition thereto, and such general laws as are applicable to all railroads.

Approved November 6, 1847.

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NO. 58 OF 1849.

AN ACT IN ADDITION TO AN ACT INCORPORATING THE RUTLAND AND BURLINGTON RAILROAD COMPANY.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. The Rutland and Burlington Railroad Company are hereby authorized to extend their road from its termination in the village of Burlington, to the village of St. Albans, in the county of Franklin, passing from Burlington, northwardly, near the head of Mallett's Bay, and crossing the Lamoille River at or near Manley's Falls, otherwise called Gilbert's Crossing, thence to the village of St. Albans, and to connect with the Vermont and Canada Railroad at St. Albans village.

SEC. 2. If the Rutland and Burlington Railroad Company shall not construct said road within two years, they shall take nothing by this act.

SEC. 3. If the Rutland and Burlington Railroad Company shall construct said road, then, and in that case, the Vermont and Canada Railroad Company shall be released and forever dis-

charged from their obligation to connect with the Rutland and Burlington Railroad, at the village of Burlington.

SEC. 4. The Rutland and Burlington Railroad Company, in the construction of said road, shall have all the rights and privileges, and be subject to all the liabilities contained in their original charter, and the acts in addition thereto.

SEC. 5. The Rutland and Burlington Railroad Company shall have the right to enter upon and use the Vermont and Canada Railroad, on the terms and conditions contained in the act of incorporation of the Vermont and Canada Railroad. And the Vermont and Canada Railroad Company shall have the same right to enter upon and use the Rutland and Burlington Railroad.

SEC. 6. If the Vermont and Canada Railroad Company shall not expend thirty thousand dollars upon that portion of their road extending from the point, viz: the village of St. Albans, at which the extension of the road to be built by the Rutland and Burlington Railroad Company shall connect with the Vermont and Canada Railroad to the west shore of Grand Isle county, within eighteen months from the passage of this act, and complete said portion of their road within three years from the passage of this act, then the said Rutland and Burlington Railroad Company shall be, and hereby are, authorized and empowered to construct and own that portion of the aforesaid road, from such point of connection to the western shore of Grand Isle county; and if the said Vermont and Canada Railroad Company shall not locate, construct and complete that portion of their road extending from some convenient point, at or near the village of Swanton, to Canada line, in the town of Highgate, as soon as any railroad shall be constructed from any point on the Richelieu river, to the north line of Highgate, then, and in that case, the said Rutland and Burlington Railroad Company shall be, and hereby are, authorized and empowered to construct and own said road from said point of divergence to Canada line.

Approved November 9, 1849.



No. 101 of 1850.

AN ACT IN ADDITION TO THE ACT INCORPORATING THE RUTLAND AND BURLINGTON RAILROAD COMPANY.

## SECTION

1. Company may reduce the number of directors.
2. Company may issue preferred stock.

## SECTION

- 3 This act and former act subject to provisions of all general railroad laws.
- This act to take effect Nov. 9, 1850.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. The Rutland and Burlington Railroad Corporation may, at any annual meeting of the stockholders, reduce the board of directors to such number as they may think proper, not less than seven.

SEC. 2. Said corporation may issue stock not exceeding five thousand shares, guaranteeing a certain dividend, not exceeding eight per cent., for such term of time as they may deem expedient, and such contract or guaranty shall be binding upon the corporation.

SEC. 3. This act, and the act to which it is in addition, shall be subject to all the provisions of the general railroad laws that have been, or may hereafter be, enacted by the General Assembly; and this act shall take effect from its passage.

Approved November 9, 1850.

# FIRST MORTGAGE OF THE RUTLAND AND BURLINGTON RAILROAD.

An indenture made this first day of February, A. D. 1851, by and between the Rutland and Burlington Railroad Company, a corporation duly constituted and organized, under and by virtue of the laws of the State of Vermont, of the first part, and Franklin Haven and Samuel Hooper, of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, of the second part :

WHEREAS, The said corporation, at a meeting of the stockholders thereof, duly notified and held on the sixth day of February current, have authorized and empowered the directors of the said corporation to issue the obligations or promissory notes of the said corporation in sums of five hundred and one thousand dollars each, amounting in the aggregate to a sum not exceeding one million and eight hundred thousand dollars to bear date the first day of February aforesaid, and to bear interest at the rate of seven per centum per annum, payable semi-annually, with interest warrants or coupons thereto attached, the principal sum to be payable in twelve years from the date thereof, and the same, as well as the said interest, to be payable at the office of the treasurer of the said corporation in said Boston, which said obligations or promissory notes are to be issued for the purpose of building and furnishing the said railroad, and for paying the debts heretofore contracted for the building and furnishing the said railroad; and whereas the said corporation have also deemed it expedient and proper that the said obligations or promissory notes, and the payment thereof, should be secured by a mortgage or other conveyances in trust of their railroad, and other property hereinafter specified, and have so resolved, voted and directed;

*Now therefore this indenture witnesseth,* That the said Rutland and Burlington Railroad Company, in consideration of the premises, and of one dollar to them paid by the said parties of the second part, the receipt whereof is hereby acknowledged, and for divers other good and valuable considerations them thereunto

moving, have given, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said parties of the second part, the railroad and franchise of said company, leading from Bellows Falls to Burlington, in the State of Vermont, as the same is now legally established, constructed and improved, or as the same may be at any time hereafter legally established, constructed and improved, from its junction with the Cheshire railroad at Bellows Falls to its present termination at the south line of South street, in said Burlington, with the track of said railroad and the road way, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as may hereafter pertain or belong to them, together with all the locomotive engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever, now owned or used by the said corporation, or which they may hereafter own or use; or as the same hereafter from time to time may be changed, altered or renewed by the said corporation or their agents or servants in that behalf, reserving and excepting as is hereinafter reserved and excepted: To have and to hold the same, with all the rights, privileges, benefits and advantages thereof or thereto belonging, unto them, the said parties of the second part, and the survivor of them, and to the heirs, executors, administrators and assigns of such survivor.

But nevertheless, upon the trusts, and to and for the ends, intents and purposes following, that is to say:

*First*—In trust for and to secure the payment unto the lawful holder or holders thereof, rateably, without preference, of the aforesaid obligations or promissory notes so to be issued as aforesaid, not to exceed in any event the said sum of one million eight hundred thousand dollars in the aggregate, or so many of the said obligations or promissory notes, to be issued as aforesaid, as shall be issued or negotiated below or within the said amount, as well the principal sum thereof as the interest thereon, as the same shall be or become due or payable.

*Second*—In trust upon the full payment of the principal sum of the said obligations or notes, with the interest thereon, to convey, assign and transfer the property and premises hereby

granted, bargained, sold and conveyed to them, the said parties of the second part, and all such as may for the like purpose, and upon the same trusts be conveyed to them, unto the said corporation free and discharged of and from all trusts hereby created.

*Third*—Upon trust to suffer and permit the said corporation to retain and hold the exclusive possession, use, management and control of the said property, for the proper business and management of the said railroad, until the said corporation shall make default in the payment of the principal or interest of the aforesaid obligations or promissory notes, or some thereof.

*Fourth*—Upon trust that in case the said corporation shall fail, neglect, omit or refuse to pay the principal of, or the interest upon, the said obligations or notes, or any thereof as the same shall respectively become due and payable, and such neglect, failure, omission or refusal shall continue for the period of four months after payment thereof shall be demanded in writing, the said parties of the second part, or their successors in the said trust may, by themselves or their attorneys, agents or servants, take possession of all description the said property, rights and premises, and all such as shall be conveyed to them upon the like trusts and purposes, and use and manage the same in their discretion, in the same way and manner as the said corporation could or might have done, if these presents had not been made; and to take, hold and receive all the monies and profits that may be realized therefrom, and after deducting therefrom all the expenses of running, working and managing the said railroad, including a reasonable charge for their services in the premises, shall apply the residue thereof, from time to time, to the payment of the principal of and interest upon the said notes and obligations rateably, and without preference or priority.

And lastly, upon trust that in case the said corporation shall, for the period of six months after the same shall have become due and payable, neglect, refuse, fail or omit to pay the principal sum or interest of or upon any of the said obligations or notes after the same shall have become due and payable, the said parties of the second part or their successors in the said trust, on the written application of the holders of two-thirds in amount of such obligations or notes then outstanding, in respect whereof

there shall have been any such failure, neglect, refusal or omission, either by themselves, their attorneys, agents or servants, to enter into and upon all and singular the property and premises hereby given, granted, bagained, sold and conveyed to them, or intended so to be, and all such as shall or may be hereafter granted and conveyed to them upon the like trusts, and for the like purposes, and to sell and dispose thereof, together with the franchise of the corporation, and all their corporate rights, by public auction, at such place as they in their discretion shall deem best, first giving notice of the time and place of sale by publishing notifications thereof for sixty days before such sale, in at least one public newspaper published in the city of Boston, and in one newspaper at least in each of the counties in the State of Vermont, into or through which the said railroad runs or passes, in which any newspaper shall be published; and in their own names, or in the name and as the attorneys of the said corporation, for that purpose, by these presents duly, irrevocably and legally authorized, constituted and appointed to make and deliver to the purchaser or purchasers thereof, a good, sufficient and indefeasible title, and to make, execute and acknowledge all such deeds and instruments of conveyance needful, requisite or proper therefor, and after deducting from the proceeds of such sale or sales all costs, charges and expenses, including their reasonable compensation in that behalf, and all charges of executing the trusts hereof, shall apply the residue to the payment of such of the said obligations or notes, with the interest thereon as shall be outstanding and unpaid, rateably and without preference or priority, it being expressly provided and declared that the purchaser or purchasers at any such sale or sales, shall acquire a full, complete and absolute title to the said property or premises, and shall be under no obligation whatever to see to the proper application of the proceeds of the sale or any part thereof, and in case there shall be any surplus remaining upon full payment and satisfaction of all such obligations or notes, then they, the said parties of the second part, or their successors in the said trust, shall pay over the same to the said corporation or their assigns.

And the said corporation do hereby covenant with the said parties of the second part, and their successors in the said trust, that they will at any and all reasonable times hereafter, when

thereto requested, make, execute, acknowledge and deliver all such other and further deeds, assurances and conveyances whatsoever as may be advised or required by counsel learned in the law for the better and more fully and effectually assuring and conveying unto the said parties of the second part, or their successors in the said trust, the rights, franchise, property and premises herein and hereby granted and conveyed to them, or intended so to be.

And it is hereby provided, declared and agreed, by and between the parties hereto that the said corporation shall have and retain the right to convey or dispose of, as they shall see fit and proper, such interest in the railway track or roadway and station grounds as may be required for the accommodation of connecting railroads already built, or which may be hereafter built or constructed, and make all needful contracts in respect thereto; also the right to sell, dispose of and convey, as they shall see fit, all their station lot in said Burlington except twenty acres from the north end of said station grounds, being south of the south line of South street, and west of the west line of Champlain street, as now established, or as the same may hereafter be established by an extension thereof; also excepting and reserving from the said premises so granted and conveyed a dwelling house and three acres of land adjoining, situate in Middlebury, in the State of Vermont, conveyed to the party of the first part by Joseph Warner; also a tract of land and mill privilege situate at Vergennes, acquired by the party of the first part by virtue of an execution against Samuel Barker; also a dwelling house and lot in said Vergennes, acquired of Abram Satterly; also twenty-five acres of land in Mt. Holly, bought of Amasa Dickerman; also land purchased of Alanson Meacham, Justin Winslow and Chester Winslow, in the town of Brandon; also about forty acres of land in the town of Wallingford, purchased of Fuller; also about eighteen acres of land in Ferrisburgh, purchased in part of Michael Ball, and part of Stevens, and both used as a gravel pit, and the same and all thereof are expressly excepted and reserved from the premises hereinbefore granted and conveyed, or intended so to be.

And it is further declared, provided and agreed that in case either of the parties of the second part shall die or become from any cause incapable of acting as such trustee, or shall remove

without the Commonwealth of Massachusetts, the remaining party of the second part shall have the right to select and appoint in writing some other suitable person in the lieu and stead of the person so dying, removing or becoming incapable, and upon such selection and appointment being endorsed hereon or attached hereto, together with the acceptance of the person so selected and appointed, such person shall have all the rights, power, property, privileges, benefits and advantages—including the like right of selection and appointment—and be liable and subject to all the duties and responsibilities which he might or would have been entitled, liable or subject unto, if he had been originally named herein as one of the parties of the second part, and any vacancies occurring or happening in like manner from time to time in the number of the said trustees, by death, removals or incapacity, shall be filled in like manner from time to time by the remaining party of the second part. And in case such remaining trustee shall unreasonably neglect or refuse to appoint a trustee in the stead of any trustee so dying, removing or becoming incapable, it shall be lawful for the Corporation to apply to any court of competent jurisdiction for the appointment of such trustees, as well as in case the said parties of the second part or any one appointed in the stead or place of either shall refuse or decline to act as such trustee. And the parties of the second part do hereby accept the said trust, and do hereby covenant with the party of the first part well and faithfully to execute and perform the same; provided, however, and it is hereby declared and agreed that neither of the parties of the second part shall be holden, bound or liable for the acts, doings, receipts, neglects, omissions or misfeasances of the other, but each shall only be liable for his own acts, doings and receipts, and neither of them shall be liable for any loss happening in the premises unless the same happen or arise by or through his own willful neglect, default or fraud. And it is hereby mutually declared and agreed between the said parties that the parties of the second part shall be entitled to receive the sum of two hundred dollars yearly, which shall be in full payment and satisfaction for their services under the trusts, except in the cases hereinbefore provided for their retaining a reasonable compensation for their services, and the said party of the first part shall punctually pay to them the said yearly sum.

In testimony whereof the said Rutland and Burlington Railroad Company, by Timothy Follett, their President, thereto duly authorized as appears by the votes of the said corporation hereto annexed, have caused the seal of the said corporation to be hereto affixed, and said Follett hath hereto subscribed his name, and the said Haven and Hooper have hereto affixed their names and seals the day and year first above written.

RUTLAND & BURLINGTON RAILROAD COMPANY, by

TIMOTHY FOLLETT, *Pres.* [L. s.]

FRANKLIN HAVEN, [L. s.]

S. HOOPER, [L. s.]

Signed, sealed and delivered in presence of

GEO. B. GIBBONS,

EDWARD F. HODGES,

COMMONWEALTH OF MASSACHUSETTS, }  
SUFFOLK, SS.

City of Boston, this 13th day of March, A. D. 1851, appeared before me, Edward F. Hodges, of the said city of Boston, a commissioner duly appointed, commissioned and sworn according to the laws of the State of Vermont, to take the acknowledgment of deeds and other instruments in writing, to be used and recorded in Vermont, Rutland and Burlington Railroad Company by Timothy Follett, President of said company, and Franklin Haven and S. Hooper, in their proper persons, all signers and sealers of this instrument before written and acknowledged, said instrument to be the free act and deed of them and each of them.

In token of which I have hereunto set my hand and the seal of my office the day and year above written.

EDWARD F. HODGES, [L. s.]

*Commissioner.*



## MODIFICATION OF FIRST MORTGAGE.

An indenture made the 21st day of July, A. D. 1853, by and between the Rutland and Burlington Railroad corporation named in the within instrument of the first part, and Franklin Haven and Samuel Hooper, named in the within instrument, of the second

*Whereas*, at a meeting of the stockholders of said corporation held on the 8th day of June, now last past, the directors of said corporation were duly authorized and empowered to issue obligations, notes or bonds of said corporation to the amount in the aggregate of fifty thousand dollars of the denomination of one hundred dollars to be of the same form, bear the same date and the same rate of interest, and payable at the same time as the notes or obligations mentioned and described in the within instrument, the same to be part of the sum of one million eight hundred thousand dollars therein mentioned, and to be secured rateably by the same lien, pledge, mortgage and hypothecation.

*Now this indenture witnesseth*, that it is covenanted, granted, declared, provided and agreed by and between the said parties and their several and respective legal representatives in manner following, that is to say:

First. That the within instrument is hereby so far varied and altered that the directors of the said corporation are fully authorized and empowered to issue as part and parcel of the said sum of one million eight hundred thousand dollars, notes or obligations of said corporation of the denomination of one hundred dollars to the extent and amount of fifty thousand dollars instead of notes and obligations of the denomination of five hundred dollars and one thousand dollars as within is provided.

Second. That the said notes or obligations of the denomination of one hundred dollars shall be secured by the within mort-

gage rateably with the notes or obligations of the denomination therein named, as part and parcel of the therein named aggregate of one million eight hundred thousand dollars, and the respective holders thereof shall be entitled unto all the rights, privileges, benefits and immunities whatsoever, which the holders of the notes or obligations described in the within instrument are in any manner, way or form entitled unto.

(Fourth.) The said parties of the first do hereby bargain, sell, convey, deliver and confirm unto the said parties of the second part, all and singular the property, franchises, immunities and privileges mentioned and described in the within instrument.

To have and to hold the same unto the said parties of the second part, and survivors of them and to their successors and assigns upon the same trusts and for the same uses and purposes as are therein set forth and declared, and as the same are modified and changed by these presents.

In witness whereof William Raymond Lee, president of the said corporation, and Peter Harvey, treasurer thereof, have hereunto affixed the seal of said corporation, and set their names, and the said Haven and Hooper have set their names and seals the day and year first above written.

WM. RAYMOND LEE, President. [L. S.]

Executed in presence of  
GEO. B. GIBBONS,  
JOHN HOWE.

PETER HARVEY, Treas.,  
FRANKLIN HAVEN, [L. S.]  
L. HOOPER, [L. S.]

*Trustees.*

Executed in presence of  
GEO. B. GIBBONS,  
LIBBEUS CHAPMAN, JR.

COMMONWEALTH OF MASSACHUSETTS, }  
SUFFOLK, SS.

At Boston, in said county, this 25th day of July, 1853, before me, the subscriber, a commissioner in and for the said commonwealth, appointed by the Governor of Vermont to take acknowledgments, etc., personally appeared the aforementioned Wm. Raymond Lee, Peter Harvey, and Franklin Haven, known to me to be thereof the individuals described in, and who executed the foregoing instrument, and said Lee and Harvey acknowledged the same to be the free act and deed of said corporation, and said Haven acknowledged the same to be his free act and deed.

Before me,

LYMAN MASON,  
*Commissioner for Vermont.*

STATE OF NEW YORK, }  
CITY AND COUNTY OF NEW YORK, SS. }

Be it remembered, that on this 23d day of July, 1853, before me, the subscriber, a commissioner in and for said State, appointed by the Governor of the State of Vermont to take acknowledgments, etc., personally appeared Samuel Hooper, to me known to be one of the individuals described in and who executed the foregoing instrument, and acknowledged to me that he executed the same as his free act and deed.

In witness whereof I have hereunto set my hand and affixed my official seal, the day and year above written.

LIBBEUS CHAPMAN, JR., [L. S.]  
*Commissioner for Vermont.*

VOTES AND RESOLUTIONS OF THE SOCKHOLDERS  
AUTHORIZING THE ISSUE OF THE FIRST MORT-  
GAGE BONDS.

At a meeting of the stockholders of the Rutland and Burlington Railroad Company, duly warned, held at Bellows Falls on Thursday, the 6th day of February, 1851, Hon. Timothy Follett, President, in the Chair, the following resolutions were introduced by Mr. Linsley, and unanimously adopted.

WHEREAS, the Legislature of Vermont, at their session in October 1850, passed an act approved November 13, 1850, "Entitled an act in addition to an act to incorporate the Vermont and Canada Railroad Company, approved October 31, 1845, and in addition to an act to incorporate the Champlain and Connecticut River Railroad Company, approved November 1, 1843," now therefore be it

*Resolved* by the stockholders of the Rutland and Burlington Railroad Company, (late the Champlain and Connecticut River Railroad Company,) in legal meeting assembled, that the aforesaid act approved as aforesaid, November 13, 1850, be, and the same is hereby accepted by this corporation as an amendment of their charter, and the grant to them therein contained is hereby adopted as a part of their charter.

*It is hereby further resolved*, That an act passed by the Legislature of Vermont, at their session aforesaid, approved November 9, 1850, "Entitled an act in addition to an act incorporating the Rutland and Burlington Railroad Company, be, and the same is hereby accepted as a part of their charter.

The following resolution was introduced by Hon. Robert Pierpoint, and was unanimously adopted.

*Resolved*, That the directors be and they are hereby authorized and fully empowered to locate and construct the road as contemplated in the said act of the Legislature, approved November 13, 1850, and they are hereby authorized to commence and complete said work as soon as favorable arrangements can be made, to provide and secure the necessary funds to construct the same.

The following resolutions were introduced by Mr. Linsley, and were adopted.

*Resolved*, That it is expedient for this corporation to issue, and the directors thereof are hereby authorized and empowered to issue obligations or promissory notes, in sums of five hundred dollars and one thousand dollars each, to an amount not exceeding one million eight hundred thousand dollars, to bear date the 1st day of February 1851, and to be payable in twelve years from that date, with interest at the rate of seven per cent. per annum, payable semi-annually with coupons on interest warrants attached thereto, the principal and interest to be payable at the office of the Treasurer of said corporation, in the city of Boston, which obligations or promissory notes shall be substantially in the form following, viz :

No. —. The within obligation is one of a series amounting in the aggregate to one million eight hundred thousand dollars, specified and referred to in the indenture of this date, between the Rutland and Burlington Railroad Company and the undersigned Trustees.

February —, 1851.

RUTLAND AND BURLINGTON RAILROAD COMPANY.

BOSTON, February 1, 1851.

For value received the Rutland and Burlington Railroad Company promise to pay to ——— the sum of ——— dollars in twelve years from the date hereafter, with interest at the rate of seven per cent. per annum, payable semi-annually as per interest warrant attached, the principal and interest payable at the office of the Treasurer in the city of Boston.

——— Treasurer.

——— President.

and shall be signed by the treasurer of the Company, and countersigned by the President thereof the said obligations and notes being issued for the purpose of building or furnishing the Railroad of said corporation, and paying any debts contracted for building and furnishing the same.

*Resolved*, That the said obligations or promissory notes be secured to the person or persons, corporation or corporations who may hereafter hold the same by a conveyance to ——— in trust or mortgage of the railroad and franchise of said corporation leading from Bellows Falls to Burlington, in the State of

Vermont, as the same is now legally established, constructed and improved, or as the same may be at any time hereafter legally established, constructed and improved from its junction with the Cheshire Railroad at Bellows Falls to its present termination at the south line of South Street in said Burlington, with the track of said railroad, and the road way, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as may hereafter pertain or belong to them, together with all the locomotive engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever now owned or used by the said corporation, or which they may hereafter own or use, or as the same may hereafter from time to time be changed, altered or renewed by the said corporation, or their agents or servants in that behalf, reserving to the said corporation the right to convey or to dispose of, as they shall see fit and proper such interest in the railway track or road way and station grounds as may be required for the accommodation of connecting railroads already built, or which may hereafter be built or constructed, and make all needful contracts in respect thereto. Also, the right to sell, dispose of and convey as they shall see fit, all their station lots in said Burlington, except twenty acres from the north end of said station grounds, lying south of the south line of South Street, and west of the west line of Champlain Street, as now established, or as the same be hereafter established by an extension thereof; also reserving a dwelling house and three acres of land adjoining, situated in Middlebury, in the State of Vermont, conveyed to the party of the first part by Joseph Warner; also a tract of land and mill privilege, situated in Vergennes, acquired by the party of the first part by virtue of an execution against Samuel Barker; also a dwelling house and lot in said Vergennes, acquired of Abram Satterly; also twenty-five acres of land in Mount Holly, bought of Amasa Dickerman, also land purchased of Alanson Meacham, Justin Winslow, and Chester Winslow, in the town of Brandon; also, about forty acres of land in the town of Wallingford, purchased of — Fuller; also about eighteen acres of land in Ferrisburgh purchased in part of Michael Ball, and part of — Stone, and both used as a gravel pit.

*Resolved*, That the draft of such conveyances, now submitted by the President to this meeting, be approved of; and that Timothy Follett, the President of the said corporation, be and hereby is fully authorized and empowered to sign, seal, and execute and deliver the said instruments in the name of the corporation, and the same to acknowledge in behalf of the corporation before any magistrate duly authorized, and to cause the same to be duly recorded, and to do, say and perform all other acts, matters and things needful to give full validity, force and effect to the same.

*Resolved*, That so many of the said notes or obligations as shall equal in amount the promissory notes heretofore issued and negotiated by or in behalf of this corporation, signed by the Treasurer and countersigned by the President, be, and the same are, hereby, set apart and reserved for the payment and liquidation of such notes which have been so already issued, and which have not yet matured; and that the Treasurer, under the order of the Directors of the said corporation, may from time to time exchange the said notes or obligations, for the notes or obligations of the corporation now outstanding, upon such terms as the said Directors shall deem proper, or to sell and dispose thereof, and to apply the proceeds thereof to the payment of such present outstanding notes.

*Resolved*, That the Treasurer of the said corporation be, and he hereby is, authorized, under the direction of the Directors of said corporation, to issue and dispose of the remaining amount of notes and obligations, hereby provided to be issued, and the proceeds to apply to the building or furnishing said railroad, or to the payment of debts heretofore contracted for the building and furnishing the same.

A true record,

SAMUEL SWIFT, *Clerk*.

Rutland and Burlington Railroad Company. In stockholders meeting, June 8, 1853.

*Resolved*, That the directors of this corporation be and they are hereby authorized and empowered to issue obligations, notes or bonds of this corporation to the amount in the aggregate of fifty thousand dollars of the denomination of one hundred dollars each, to be in the same form, bear the same date, and at the same rate of interest, and payable at the same time as the obligations or notes, which were authorized to be issued by the reso-

lutions of the corporations made and passed on the 6th day of February, 1851, and that the said notes or obligations be held instead of so much of the aggregate amount of the sum of eighteen hundred thousand dollars thereby authorized to be issued, and be part and parcel thereof, and be secured by the mortgage thereby authorized to be made and issued, and that the aforesaid resolution be so far varied and altered. Also,

*Resolved*, That the President and Treasurer of this corporation\* be authorized and empowered to sign, seal and execute such agreement as shall be advised by counsel learned in the law, and to cause the aforesaid notes or obligations of the denomination of one hundred dollars to be secured rateably with the notes or obligations of the denomination of one thousand dollars and five hundred dollars each named in said mortgage, as part and parcel of the aggregate amount thereby secured or intended so to be.

A true copy from the records.

(Signed) Attest J. H. WILLIAMS, *Clerk*.



## SECOND MORTGAGE OF THE RUTLAND & BURLINGTON RAILROAD.

An indenture made this 1st day of August, A. D. 1853, by and between the Rutland and Burlington Railroad Company, a corporation duly constituted and organized under and by virtue of the laws of the State of Vermont, of the first part, and Samuel Henshaw and J. Thomas Stevenson of the second.

*Whereas*, by an indenture bearing date the 1st day of February, A. D. 1851, the said party of the first part did grant, bargain, sell and convey unto Franklin Haven and Samuel Hooper therein named, the railroad and franchise of said company, leading from Bellows Falls to Burlington, in the State of Vermont, as the same was legally established, constructed or improved, or as the same might thereafter be legally established, constructed and improved, from its junction with the Cheshire Railroad at Bellows Falls to its present termination at the south line of South Street, in said Burlington, with the track of said railroad and roadway and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements, and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as might thereafter pertain or belong to them, together with all the locomotive engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever then owned or used by said corporation, or which they might thereafter own, or use, or as the same thereafter might from time to time be changed, altered or renewed by the said corporation or their agent or servants, or that with the reservations and exceptions therein contained, upon the trusts, and for the uses and purposes therein set forth and declared, and whereas by an indenture bearing date the 21st day of July, 1853, made between the same parties, the indenture hereinbefore first mentioned has been modified and changed in some particulars, as by reference thereto will more fully and at large appear, and whereas at a meeting of the stockholders of said corporation held on the 8th day of June, A. D. 1853, it was resolved that it was expedient for said corporation, and the

board of directors were thereby authorized and empowered to issue bonds, obligations, or promissory notes, with coupons or interest warrants attached, in addition to the bonds theretofore issued, in pursuance of a vote of said corporation of the 6th of February, 1851, to an amount not exceeding one million two hundred thousand dollars, for the purpose of paying the outstanding debts of said corporation, contracted for building and furnishing said road, said bonds, obligations or notes to be signed by the President and Treasurer, to bear date and be made payable at such times as the directors may judge expedient, bearing an interest not exceeding three and one-half per cent. semi-annually, payable at the office of the treasurer; and whereas at said meeting it was also resolved that the directors be authorized and empowered to secure the payment of all such bonds, obligations or notes as might be issued in pursuance of the resolution hereinbefore recited, to the person or persons, or corporation who might thereafter hold the same, by executing to such persons as said directors might select or agree upon as trustees in trust for the use and benefit of such holders, an additional or second mortgage of the same property and premises as are mentioned and described in the indenture first hereinbefore named, making the same as full and complete, with like reservations as are therein contained, and that the president of said corporation, for the time being, was thereby fully authorized and empowered to sign, seal and deliver the said instrument of conveyance or mortgage, in the name of the said corporation, and acknowledge the same before any magistrate or other officer duly authorized to take acknowledgements of deeds, and cause the same to be recorded as required by law, and to do and perform all other acts and things necessary to give validity and effect to said conveyance; and whereas the directors of the said corporation, pursuant to the authority contained in the aforesaid resolutions, have resolved to issue promissory notes to the extent of one million two hundred thousand dollars, for the purposes and in the manner therein set forth, which notes are to bear date the first day of August, 1863, and to be payable on the first day of February, in the year 1853, with interest at the rate of seven per cent. per annum, payable semi-annually, with coupons or interest warrants thereto, and have selected and agreed upon the parties of the second part, as trustees to receive and hold the

security to be given for the security of the said notes, as provided for in said resolutions.

*Now therefore this indenture witnesseth,* That the said parties of the first part, in consideration of the premises and of one dollar to them paid by the said parties of the second part, the receipt whereof is hereby acknowledged, and for divers other good and valuable considerations them thereunto moving, have given, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said parties of the second part, all and singular the lands, buildings, tenements, hereditaments, franchise, road, rights, easements, immunities and privileges whatsoever, and the property and premises whatsoever mentioned, specified, described or referred unto in the indenture first hereinbefore mentioned, and thereby granted and conveyed, with the exceptions and reservations therein mentioned and specified, and subject to the provisions of the last named indenture and of the indenture bearing date July 21st, 1853, and the trusts thereof, and the lien, pledge, mortgage and hypothecation thereby imposed or created.

To have and to hold the same with all the rights, privileges, benefits and advantages thereof, or thereto belonging, but subject as aforesaid unto them the said parties of the second part and the survivor of them, and to the heirs, executors, administrators and assigns of such survivor.

But nevertheless upon the trusts and to and for the ends, interests and purposes following, that is to say :

*First*—In trust for, and to secure the payment unto the lawful holder or holders thereof ratcably, and without preference of the aforesaid notes, to be issued pursuant to the aforesaid resolutions, to an amount not exceeding one million two hundred thousand dollars, or so many of the said notes as shall be issued below, or within the said amount, as well the principal sum as the interest thereon, as the same shall be or become due or payable.

*Second*—In trust upon the full payment of the principal sum of said notes, with the interest thereon to convey, assign and transfer the property and premises hereby granted, bargained, sold and conveyed to them, the said parties of the second part, and all such as may for the like purposes, and upon the same trusts be conveyed to them unto the said corporation free, and discharged from all trusts hereby created.

*Third*—Upon trust to suffer and permit the said corporation to retain and hold the exclusive possession, use, management and control of the said property for the purpose, business and management of the said railroad, until the said corporation shall make default in the payment of the principal, or interest of the said notes.

*Fourth*—Upon trust that in case the said corporation shall fail, neglect, omit or refuse to pay the principal of, or the interest upon, the said notes, or any thereof as the same shall respectively become due and payable, and such neglect, omission or refusal shall continue for the period of four months after payment thereof shall be demanded in writing, the said parties of the second part or their successors in the said trust may by themselves or their attorneys, agents or servants, take possession of all the said property, rights and premises, and all such as shall be conveyed to them upon the like trusts and purposes, and use and manage the same in their discretion, in the same way and manner as the said corporation could or might have done if these presents had not been made, and to take, hold and secure all the moneys and profits that may be realized therefrom, and after deducting therefrom all the expenses of running, working and managing the said railroad, including a reasonable charge for their services in the premises, shall apply the residue thereof from time to time, to the payment of the principal of, and the interest upon the said notes, rateably, and without preference or priority.

*And lastly*—upon trust, that in case the said corporation shall for the period of six months after the same shall have become due and payable, neglect, refuse, fail or omit to pay the principal sum, or interest of, or upon, any of said bonds after the same shall have become due and payable, the said parties of the second part, or their successors in the said trust, on the written application of the holders of two-thirds in amount of such notes then outstanding in respect whereof there shall have been any such failure, neglect, refusal or omission either by themselves, their attorneys, agents or servants, shall enter into and upon all and singular the property and premises hereby given, granted and bargained, sold and conveyed to them or intended so to be, and all such as shall or may be hereafter granted and conveyed to them upon the like trusts, and for the like purposes, and to sell and dispose thereof together with the franchise of the corporation, and all their corporate rights by public auction at such

place as they in their discretion shall deem best, first giving notice of the time and place of sale, by publishing notifications thereof for sixty days before such sale, in at least one public newspaper published in the city of Boston, and in one newspaper at least in each of the counties in the state of Vermont, into or through which the said railroad runs or passes, in which any newspaper shall be published, and in their own names, or in the name and as the attorneys of the said corporation, for that purpose by these presents duly irrevocably and legally authorized, constituted and appointed, to make and deliver to the purchaser or purchasers thereof, a good and sufficient and indefeasible title, and to make, execute and acknowledge all such deeds and instruments of conveyance as may be needful, requisite or proper therefor. And after deducting from the proceeds of such sale or sales, all cost, charges and expenses, including their reasonable compensation in that behalf, and all charges of executing the trust hereof, shall apply the residue to the payment of such of the said notes with the interest thereon, as shall be outstanding and unpaid, rateably and without preference or priority, it being expressly provided and declared that the purchaser or purchasers at any such sale or sales, shall acquire a full and complete and absolute title to the said property and premises subject to aforesaid prior lien, mortgage and hypothecation, and shall be under no obligation to see to the proper application of the proceeds of sale or any part thereof. And in case there shall be any surplus remaining after full payment and satisfaction of all such notes, then they, the said parties of the second part, or their successors in the said trust, shall pay over the same to the said corporation or their assigns.

And the said parties of the first part do hereby covenant with the said parties of the second part and their successors in said trust, that they will at any and all reasonable times hereafter, when thereto requested, make, execute, acknowledge and deliver all such other and further deeds, assurances and conveyances whatsoever, as may be advised, or required by counsel learned in the law, for the better and more fully and effectually assuring and conveying unto the said parties of the second part or their successors in the said trust the rights, franchise, property and premises herein and hereby granted and conveyed to them or intended so to be.

And it is hereby provided and agreed, that there shall be excepted and reserved from and out of the premises hereby granted and conveyed, the same lands and premises as are reserved and excepted, in the indenture hereinbefore first mentioned, or referred unto.

And it is further declared, provided and agreed, that in case either of the parties of the second part, shall die or become from any cause incapable of acting as such trustee, or shall remove from the commonwealth of Massachusetts, the remaining party of the second part shall have the right to select and appoint in writing, some other suitable person in the lieu and stead of the person so dying, removing or becoming incapable, and upon such selection and appointment being endorsed hereon or attached hereto, together with the acceptance of the person so selected and appointed, such person shall have all the right, power, property, privileges, benefits and advantages, including the like right of selection and appointment, and be liable and subject to all the duties and responsibilities which he might or would have been entitled, liable or subject unto if he had been originally named herein, as one of the parties of the second part, and any vacancies occurring or happening in like manner from time to time in the number of trustees, by death, removal or incapacity, shall be filled from time to time in like manner by the remaining party of the second part, and in case such remaining trustee shall unreasonably neglect or refuse to appoint a trustee in the stead of any trustee so dying, removing or becoming incapable, it shall be lawful for the corporation to apply to any court of competent jurisdiction for the appointment of such trustees, as well as in case said parties of the second part or any one appointed in the place or stead of either, shall refuse, or decline to act as such trustee. And the parties of the second part do hereby accept of the said trust, and do hereby covenant with the parties of the first part well and faithfully to execute and perform the same.

Provided, however, and it is hereby declared and agreed, that neither of the parties of the second part, shall be holden, bound or liable for the acts, doings, receipts, neglects, omissions or misfeasance of the other,—but each shall be liable only for his own acts, doings and receipts, and neither of them shall be liable for any loss happening in the premises, unless the same happen, or arise, by or through his own willful neglect, default or fraud.

And it is hereby mutually declared and agreed between the said parties, that the parties of the second part shall be entitled to receive the sum of two hundred dollars yearly, which shall be in full payment and satisfaction for their services under their trust, except in cases hereinbefore provided for their retaining a reasonable compensation for their services, and the said parties of the first part shall punctually pay to them the said yearly sum. In witness whereof W. Raymond Lee, President of the said corporation, parties of the first part, hath hereunto set his name and affixed the seal of the said corporation, and the parties of the second part have affixed their hands and seals, the day and year first above written.

W. RAYMOND LEE, [L. s.]  
President R. & B. R. R. Co.

Executed in presence of witness, }  
PETER HARVEY, }  
LYMAN MASON. }

SAM'L. HENSHAW. [L. s.]  
J. THOMAS STEVENSON. [L. s.]

COMMONWEALTH OF MASSACHUSETTS, } Boston, August 26th,  
SUFFOLK, ss. } 1853.

Then personally appeared the aforementioned Wm. Raymond Lee, President of said corporation, and the said Sam'l Henshaw and J. Thomas Stevenson, and the said Lee as the said President, acknowledged the foregoing instrument to be the free act and deed of said corporation, and the said Henshaw and Stevenson, acknowledged the same to be their free act and deed.

Before me, LYMAN MASON,  
Justice of the Peace for said Suffolk County,  
And Commissioner, &c., for the State of Vermont.

### THIRD MORTGAGE OF RUTLAND AND BURLINGTON RAILROAD.

An indenture made this 19th day of May, A. D. 1854, by and between the Rutland and Burlington Railroad Company, a corporation duly constituted and organized under and by virtue of the laws of the State of Vermont of the first part, and Thomas Thacher of Roxbury, State of Massachusetts, and D. A. Smalley, of Burlington, State of Vermont, of the second part :

*Whereas*, by an indenture bearing date the first day of February, A. D. 1851, the said party of the first part, did grant, bargain, sell and convey unto Franklin Haven and Samuel Hooper, therein named, the railroad and franchise of the said company leading from Bellows Falls to Burlington, in the State of Vermont, as the same was legally established, constituted and improved, or as the same thereafter might be legally established, constituted or improved, from its junction with the Cheshire Railroad at Bellows Falls to its present termination at the south line of South Street, in said Burlington, with the track of said railroad and roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining and belonging, and all such as might thereafter pertain or belong to them, together with all the locomotives, engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever then owned or used by the said corporation, or which they might thereafter own or use, or as the same might thereafter from time to time be changed, altered or renewed by the said corporation or their agents and servants, or that with the reservations and exceptions therein contained upon the trusts and for the uses and purposes therein set forth and declared; and whereas by an indenture bearing date the 21st day of July, A. D. 1853, made between the same parties, the indenture hereinbefore first mentioned has been modified and changed in some particulars, as by reference thereunto will more fully and at large appear; and whereas at a meet-



ing of the stockholders of the said corporation, held on the 8th day of June, 1853, it was resolved that it was expedient for the said corporation, and the board of directors were thereby authorized and empowered to issue bonds, obligations or promissory notes with coupons or interest warrants attached, in addition to the bonds hereinbefore issued in pursuance of a vote of said corporation of the 6th of February, A. D. 1851, to an amount not exceeding one million two hundred thousand dollars for the purpose of paying the outstanding debts of the corporation, contracted for building and furnishing their said road, said bonds, obligations or notes when signed by the President and Treasurer to bear date and be made payable at such times as the directors may judge expedient, bearing an interest not exceeding three and one-half per cent. semi-annually, payable at the office of the Treasurer;

And whereas, at said meeting it was also resolved that the directors be authorized and empowered to secure the payment of all such bonds, obligations or notes as might be issued in pursuance of the resolution hereinbefore recited, to the person or persons or corporation who might thereafter hold the same, by executing to such person as such directors might select or agree upon as trustees on trust for the use and benefit of such holders, an additional or second mortgage of the same property and premises as are mentioned or described in the indenture first hereinbefore named, making the same as full and complete with like reservations as are therein contained, and that the President of said corporation, for the time being, was thereby fully authorized to sign, seal and deliver the said instrument of conveyance or mortgage in the name of the said corporation, and acknowledge the same before any magistrate or other officers duly authorized to take acknowledgements of deeds, and cause the same to be recorded as required by law, and do and perform all other acts and things necessary to give effect and validity to said conveyance.

And whereas the directors and corporation pursuant to the authority contained in the aforesaid resolution, resolved to and did issue promissory notes to the amount of one million two hundred thousand dollars, for the purpose and manner therein set forth, and on the 1st day of August, A. D. 1853, made, executed and delivered to Samuel Henshaw and J. Thomas Stevenson, a deed of trust and mortgage of all the property, both real and personal, conveyed by indenture of the first of February herein-

before referred to for the uses and purposes set forth in the last aforesaid resolutions adopted on the 8th day of June, 1853, as will more fully and largely appear in and by said last deed of trust and mortgage, which is for that purpose hereby referred to.

And whereas, at a meeting of the stockholders of said corporation holden pursuant to legal notice at Bellows Falls, State of Vermont, on the 12th of April, 1854, it was resolved as follows:

1st. *Resolved*, That it is expedient for this corporation, and the board of directors are hereby empowered and authorized to issue bonds, obligations or promissory notes, with coupons or interest warrants attached, in addition to the bonds heretofore issued, in pursuance of a vote of this corporation of the 6th of February, 1851, and a vote of June 8, 1853, to an amount not exceeding one million two hundred thousand dollars, for the purpose of paying the outstanding debts of the corporation, contracted for building and furnishing their said road, said bonds to be signed by the President and Treasurer, to bear date and be made payable at such times as the directors may judge expedient, bearing an interest not exceeding three and one-half per cent. payable semi-annually at the office of the Treasurer; provided, however, and the issue of the aforesaid bonds, obligations or promissory notes, is to be made upon the condition that none of such bonds shall be sold or disposed of by this corporation at less than par.

*Resolved*, That the directors and other officers of the corporation shall have no power to issue or pledge the bonds this day authorized as collateral security for the debts of the company.

*Resolved*, That the directors be authorized and empowered to secure the payment of all such bonds as may be issued in pursuance of the preceding resolutions to the person or persons or corporation, who may hereafter hold the same by executing to such person as said directors may elect or agree upon, as trustee in trust for the use and benefit of such holders an additional or third mortgage of the road, franchise and property of any description, including cars, engines, station houses, and wharves, subject to the first and second or existing mortgages as aforesaid, making the same as full and complete with like reservations as those authorized and executed under authority of the aforesaid resolutions of February 6, 1853, and June 6, 1853.

And that the President of this corporation for the time being is hereby authorized and empowered to sign and seal and deliver

the said instrument of conveyance and mortgage in the name of the corporation, and acknowledge the same before any magistrate or other officer duly authorized to take acknowledgements of deeds, and cause the same to be recorded as required by law, and to do and perform all other acts and things necessary to give validity and effect to said conveyance.

And whereas the directors of said corporation pursuant to the authority contained in the aforesaid resolutions, have resolved to make another issue of promissory notes to the extent of one million two hundred thousand dollars, for the purposes and in the manner set forth in said last named resolutions, which notes are to bear date the 1st day of May, 1854, and to be payable on the 1st day of February, 1863, with interest at the rate of seven per cent. per annum, payable semi-annually with coupons or interest warrants thereto.

And have selected and agreed upon the parties of the second part, as trustees to receive and hold the security to be given for the security of the said notes in said resolution.

*Now, therefore, this indenture witnesseth*, that the parties of the first part, in consideration of the premises and of one dollar to them paid by the said parties of the second part, the receipt whereof is hereby acknowledged, and for divers other good and valuable considerations then thereunto moving, have given, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey, unto the said parties of the second part, all and singular the lands, buildings, tenements, hereditaments, franchises, roads, rights, easements, immunities and privileges whatsoever, and the property and premises whatsoever mentioned, specified, described or referred to in the indenture first hereinbefore mentioned, and thereby granted and conveyed, with the exceptions and reservations therein mentioned and specified, and subject to the provisions of the last named indenture, and of the indenture bearing date July 21, 1853, and further subject to the provisions of the indenture of the 1st day of August, 1853, and the trusts of the aforesaid indentures, and the loan, pledge, mortgage hypothecation thereby imposed and created;

To have and to hold the same with all the rights, privileges, benefits and advantages thereof (but subject as aforesaid) unto them the said parties of the second part, and the survivor of

them, and to their heirs, executors, administrators and assigns of such survivor, but nevertheless, for the trusts to and for the use interest and purposes following, that is to say :

*First.*—In trust for and to secure the payment unto the lawful holders thereof, rateably and without preference of the aforesaid notes to be issued pursuant to the aforesaid resolutions to an amount not exceeding one million two hundred thousand dollars, or so many of the said notes as shall be issued below or within the said amount, as well the principal sum as the interest thereon as the same shall become due or payable.

*Second.*—In trust upon the full payment of the principal sum of said notes, with the interest thereon, to convey, assign and transfer the property and premises hereby granted, sold and conveyed to the said parties of the second part, and all such as may be for the like purpose, and upon the same trust, so conveyed to them unto the said corporation, free and discharged from all trusts hereby created.

*Third.*—Upon trust to suffer and permit the said corporation to retain and hold the exclusive possession and management and control of the said property, for the purposes, business and management of said railroad, until the said corporation shall make default in the payment of the principal or interest of the aforesaid notes.

*Fourth.*—Upon trust that in case the said corporation shall fail, neglect, omit or refuse to pay the principal or the interest upon the said notes, or any thereof as the same shall respectively become due and payable, and such neglect, omission or refusal shall continue for the period of one month after payment thereof shall be demanded in writing, said parties of the second part, or their survivors in the said trust, may by themselves or their attorneys, agents or servants, take possession of all the said property, rights and premises, and all such as shall be conveyed to them upon the like trusts and purposes, and use and manage the same in their discretion in the same way and manner as the said corporation could or might have done if these presents had not been made, to take, hold and remove all the monies and profits that may be rendered therefrom, and after deducting therefrom all the expenses of running, making and managing the said railroad, including a reasonable charge for their services in the premises, shall apply the residue thereof from time to time, to the

payment of the principal of, and interest upon the said notes, and without preference or partiality.

*And lastly,* Upon trust that in case the said corporation shall for the period of six months after the same shall have become due and payable, neglect, refuse, fail or omit to pay the principal sum or interest of, or upon, any of the said bonds, after the same shall have become due and payable, the said parties of the second part or their successors in the said trust on the written application of the holders of two-thirds in amount of the said notes then outstanding, in respect whereof there shall have been any such failure, neglect, refusal or omission, either by themselves, their attorneys, agents or servants, shall enter into and upon all and singular, the property and premises hereby given, granted, bargained, sold and conveyed to them or intended so to be, and all such as shall or may be hereafter granted and conveyed to them upon the like trusts and for the like purposes, and to sell and dispose thereof, together with the franchise of the corporation, and all their corporate rights, by public auction, at such place as they in their discretion shall deem best, first giving notice of the time and place of sale by publishing a notification thereof for sixty days before such sale, in at least one public newspaper, published in the city of Boston, and in one newspaper at least in each of the counties of the State of Vermont, into or through which the said railroad runs or passes, in which any newspaper shall be published, and in their own names or in the names of their attorneys of the said corporation for that purpose, by these presents duly irrevocably and legally authorized, constituted and appointed, to make and deliver to the purchaser or purchasers thereof a good, sufficient and indefeasible title, and to make, execute and acknowledge all such deeds and instruments of conveyances as may be needful, requisite and proper therefor. And after deducting from the proceeds of such sale or sales, all costs, charges and expenses, including their reasonable expenses in that behalf, and all charges of executing the trusts thereof, shall apply the residue thereof to the payment of such of the said notes with the interest thereon, as shall be outstanding and unpaid, rateably and without preference or priority, it being expressly provided and declared that the purchaser or purchasers at any such sale or sales, shall acquire to a full and complete and absolute title to the said property and premises, subject to the

aforesaid prior liens, mortgages and hypothecations, and shall be under no obligation to see to the proper application of the proceeds of sale or any part thereof, and in case there shall be any surplus remaining after full payment and satisfaction of all such notes, then they, the said parties of the second part, or their successors in the said trust, shall pay over the same to the said corporation or their assignees.

And all the said parties of the first part do hereby covenant with the said parties of the second part and their survivors in said trust that they will at any and at all reasonable times hereafter when thereunto requested, make, execute and acknowledge, and deliver all such other and further deeds, assurances and conveyances whatsoever, as may be advised or acquired by counsel learned in the law, for the better and more fully and effectually assuring and conveying unto the said parties of the second part, or their survivors in the said trust, the rights, franchise, property and premises herein and hereby granted and conveyed to them or intended so to be.

And it is hereby provided that there shall be excepted and reserved from this indenture the same lands and premises as were excepted and reserved in the indentures hereinbefore named.

And it is further declared and provided, that in case either of the parties of the second part shall die, resign, or become from any cause incapable of acting as such trustee, or shall remove without the United States, the remaining party of the second part, shall have the right to select and appoint in writing, some other suitable person in lieu of the person so dying, removing, or becoming incompetent, and upon such appointment being endorsed or attached hereto, together with the acceptance so made or appointed, such person shall have all the rights, power and property privileges, benefits and advantages, including the like right of selection and appointment, to be liable and subject to all the duties and reservations which he might or would have been entitled, liable and subject unto if he had been originally named herein as one of the parties of the second part, and any vacancies occurring or happening in like manner from time to time, in the number of trustees by death, removal or incapacity, shall be filled from time to time in like manner, by the remaining party of the second part, and in case such remaining trustee shall unreasonably neglect or refuse to appoint a trustee in the stead

of any trustee so dying, removing, resigning or becoming incapable, it shall be lawful for the corporation to apply to any court of competent jurisdiction, for the appointment of such trustee, as well as in case the said parties of the second part or any one appointed in their stead or place of either shall refuse or decline to act as such trustee, and the parties of the second part do hereby accept the said trust and do hereby covenant with the parties of the first, well and faithfully to execute and perform the same.

Provided, however, and it is hereby declared and agreed that neither of the parties of the second part shall be holden, bound or liable for the acts, doings, receipts, neglects, omissions, or misfeasances of the other, but each shall only be liable for his own acts, doings, receipts, and neither of them shall be liable for any loss happening in the premises, unless the same happen or arise by his own willful default or fraud.

And it is hereby mutually declared and agreed between the said parties, that the parties of the second part shall be entitled to receive the sum of two hundred dollars yearly, which shall be in full payment and satisfaction for their services under the trust, except in the case heretofore provided for their retaining a reasonable compensation for their services, and the said parties of the first part shall personally pay to them the said yearly sum.

In witness whereof, Thomas Thacher, President of the said corporation parties of the first part, hath hereunto set his name and affixed the seal of the said corporation, and the parties of the second part have affixed their hands and seals the day and year above written.

RUTLAND AND BURLINGTON RAILROAD COMPANY.

THOMAS THACHER, [L. s.]

D. A. SMALLEY, [L. s.]

THOMAS THACHER, [L. s.]

Executed in the presence of

A. WENTWORTH, Jr.,

GEO. B. GIBBONS.

FIRST DEED OF SURRENDER OF THE RUTLAND  
AND BURLINGTON RAILROAD COMPANY TO  
TRUSTEES OF SECOND MORTGAGE.

This indenture, made this 16th day of November, A. D. 1853, by and between the Rutland and Burlington Railroad Company, a corporation duly established and organized under and by virtue of the laws of the State of Vermont of the first part, and Samuel Henshaw, of Brookline, in the county of Norfolk and Commonwealth of Massachusetts, and J. Thomas Stevenson, of Boston, in the county of Suffolk, in said Commonwealth of the second part,

*Witnesseth*, That the said parties of the first part in consideration of the sum of ten dollars to them paid by the said parties of the second part, the receipt whereof is hereby acknowledged, and for divers other good and valuable considerations then thereunto moving, and wherewith they are content and satisfied, do hereby surrender, yield up, convey and confirm to the said parties of the second part, all, and singular the franchise and railroad of said company, leading from Bellows Falls to Burlington, in said Vermont, as the same is now legally established and improved from its junction with the Cheshire Railroad at Bellows Falls, to its present termination at the south line of South Street, in said Burlington, with the track of said railroad and the roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or corporation, appertaining or belonging, and all the locomotive engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property which were granted and conveyed, or intended so to be, by an indenture bearing date the first day of August last, unto said parties of the second part in trust and mortgage, so that they, the said parties of the second part, may have and continue to have the possession thereof.

To have and to hold the same unto them, the said parties of the second part, and the survivor of them and the heirs, execu-



tors, administrators and assigns of such survivor, but for the uses and purposes in said indenture set forth and declared, and none other. And the said parties of the second part, do hereby accept the said surrender and possession of the said property, estate, franchise, and premises, and do hereby covenant and agree, that they will by themselves, their servants and agents, hold, use and manage, and use and appropriate all the monies and profits to be derived therefrom, after first deducting their costs and expenses and charges, and a reasonable compensation for themselves for the uses and purposes, and in the execution of the trusts declared and set forth in the aforesaid indenture, and none other whatsoever.

In testimony whereof, William Raymond Lee, President of the said Rutland and Burlington Railroad Company, thereto duly and fully authorized, hath hereto set his hand and affixed the seal of the said corporation, and the said Henshaw and Stevenson have hereto set their names and seals, the day and year first above written.

THE RUTLAND AND BURLINGTON RAILROAD COMPANY, by  
W. RAYMOND LEE, their President. [L. s.]  
J. THOMAS STEVENSON, [L. s.]  
SAMUEL HENSHAW. [L. s.]

Executed and delivered in presence of  
(seventeen lines erased before delivering) }  
J. P. PUTNAM,  
SAM. W. BATES.

COMMONWEALTH OF MASSACHUSETTS, } Boston, November 19,  
SUFFOLK, SS. } A. D. 1853.

On the 16th day of November aforesaid, personally appeared the above named W. Raymond Lee, and acknowledged the foregoing to be the free act and deed of the above named Rutland and Burlington Railroad Company, and on the 17th day of said November, personally appeared the above named Samuel Henshaw, and on the 19th day of said November personally appeared the above named J. Thomas Stevenson, and severally acknowledged the foregoing to be their free act and deed.

Before me

SAM. W. BATES, [L. s.]

Commissioner to take acknowledgements of Deeds in  
Massachusetts to be used in Vermont.

SECOND DEED OF SURRENDER OF THE RUTLAND  
AND BURLINGTON RAILROAD COMPANY TO  
TRUSTEES OF SECOND MORTGAGE.

This indenture, made and executed this 13th day of February, A. D. 1854, by and between the Rutland and Burlington Railroad Company, a corporation duly established by the laws of the state of Vermont, of the first part, and Samuel Henshaw, of Brooklyn, in the county of Norfolk and commonwealth of Massachusetts, and William Raymond Lee, of Roxbury, in said county, of the second part,

*Witnesseth*, That whereas, the said Rutland and Burlington Railroad Company did, on the 1st day of August, 1853, in conformity with their by-laws, execute and deliver to Samuel Henshaw and J. Thomas Stevens, a certain indenture of trust and mortgage, conveying to them the railroad and franchise of said company leading from Bellows Falls to Burlington, in the state of Vermont, as the same was legally established, constructed and improved, or as the same might thereafter be legally established, constructed and improved, from its junction with the Cheshire Railroad at Bellows Falls to its present termination at the south line of South Street in said Burlington, with the track of said railroad and roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as might thereafter appertain or belong to them, together with all the locomotive engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever then owned or used by the said corporation, or which they might thereafter own or use, or as the same thereafter might from time to time be changed, altered or renewed by the said corporation, or their agents or servants; To have and to hold the said granted property to the said Henshaw and Stevenson, and to the survivor of them and their successors in said trust, (subject to all the restrictions, reservations and conditions in said indenture contained,)

for the uses and purposes set forth in said indenture, and more particularly to secure to such person or persons as should become the holder of the bonds, obligations or promissory notes of said company, specified or referred to in said indenture, the payment of the principal and interest due thereon, the said trustees to suffer and permit the said corporation to retain and hold the exclusive possession, use, management and control of the said property for the proper business and management of the said railroad so long as the said corporation should make no default in the payment of the principal or interest of the aforesaid notes, and should keep all their covenants in said indenture.

*And whereas*, On the 16th day of November, A. D. 1853, the said corporation executed and delivered to the said Henshaw and Stevenson a deed of surrender of the possession of all the property, rights and privileges, which were conveyed to them by said indenture of August 1, 1853, to have and to hold for the purposes in said indenture set forth.

*And whereas*, Subsequently, to wit; on the 18th day of November, A. D. 1853, the said Stevenson presented to the said corporation a notice in writing declining further to act in the trusts of said indentures.

*And whereas*, The said corporation made application to a court of chancery for the state of Vermont, praying that the said Stevenson be discharged from the said trusts, and that William Raymond Lee might be appointed trustee in the place of the said Stevenson.

*And whereas*, The said court of chancery thereupon ordered and decreed that the said Stevenson should be discharged from the said trusts, and appointed the said Lee in the place of the said Stevenson, to act jointly with the said Henshaw in the execution of the trust of said indenture, and the said Lee has accepted said trusts.

*And whereas*, The said Stevenson has duly executed and delivered to the said Henshaw and Lee a release of all his right, title and interest in and to all the property, rights and privileges which he held as trustee as aforesaid in and by said indenture of August 1st, 1853, and November 16th, 1853.

*And whereas*, On the first day of February, 1854, the said corporation were unable and did decline to pay the interest coupons, which became due on that day, on the first and second

mortgage bonds of said corporation, and payment thereof has been demanded of the said corporation, in writing, by the holders of a portion of the said coupons, which demand has been refused.

*And whereas,* The said Henshaw and Lee have also demanded in writing of said corporation, that they should surrender and deliver up to them as such trustees the possession and control of said property, by reason of each breach as aforesaid.

*And whereas,* The directors of said corporation, at a legal meeting held on the seventh day of February, A. D. 1854, passed the following vote, to wit;

“*Whereas,* On the 15th day of November, 1853, the Rutland and Burlington Railroad Company executed and delivered to the trustees of the second mortgage bondholders, a deed of the surrender of the possession of all the property which passed to the said trustees, under and by virtue of said mortgage, and subject to all the provisions of said indenture of mortgage.

*And whereas,* At the time of said surrender, no breach of the condition of said mortgage had taken place.

*And whereas,* Doubts exist in the minds of some as to the validity of such surrender.

*And whereas,* On the 1st day of February, 1854, the said corporation failed to pay all the coupons becoming due on that day, and a demand has this day been made on the treasurer of said corporation by the holders of some thereof, for the payment of the same; which payment has been refused; and the trustees of the second mortgage bondholders have requested the directors of the said corporation to surrender to them possession of the property conveyed to them by said mortgage.

Now, therefore, for the purpose of confirming the surrender already made, and not doubting the validity of the same, or intending hereby to affect any right acquired thereby by parties, but to confirm the same:

*Voted,* That by reason of the inability of the corporation to pay the coupons which became due on the first day of February, on the first and second mortgage bonds, and a demand having been duly made on the treasurer, for the payment of a portion of the coupons due on said second mortgage, payment of which was refused, and by virtue of any other powers the said corporation enabling, the president and treasurer of the corporation

were hereby authorized to execute, in conformity with the by-laws of this corporation, and to deliver as its act and deed, a deed of surrender to the trustees, under the said second mortgage of the possession of all the property, rights and privileges which were conveyed by, or which passed under and by virtue of said indenture of mortgage, to the trustees therein named, and also a conveyance of any and all the property the said corporation now own, and which they have purchased for the purpose of enabling them to operate said road, the same to be held by them subject to all the trusts and conditions of said indenture.

*Now therefore this indenture witnesseth,* That said parties of the first part, in consideration of the premises and of ten dollars to them paid by the parties of the second part, and for divers other good and valuable considerations, them thereunto moving, and wherewith they are satisfied, do hereby surrender, yield up, convey, confirm and deliver possession of, to the said parties of the second part, as such trustees, all and singular, the property, estate, rights, privileges, lands, tenements and franchise conveyed or intended to be conveyed by the said indenture of mortgage of August first, A. D. 1853, to the parties therein named, and the said parties of the first part, for the like consideration received of the said parties of the second part, do hereby bargain, sell and convey to the said parties of the second part, trustees as aforesaid, any and all property they may own, and which they have purchased for the purpose of enabling them to operate said road.

To have and to hold the same unto them, the said parties of the second part, their heirs and assigns, and to the survivor of them and the heirs and assigns of said survivor, and to their successors in said trust, but for the uses and purposes in said indenture set forth, and for no other.

And the said parties of the second part do hereby accept the said surrender of possession of said property, estate, franchise and premises, and do hereby covenant and agree that they will, by themselves and their servants and agents, hold, use and manage them, and use and appropriate all the monies and profits to be derived therefrom, (after first deducting their costs, expenses and charges, and a reasonable compensation for themselves,) for the uses and purposes, and in the execution of the trusts declared

and set forth in the aforesaid indenture of August first, 1853, and none other whatever.

In witness whereof, Wm. Raymond Lee, president of said corporation, and Peter Harvey, treasurer of the same, thereto duly authorized, have hereunto set their hands and affixed the seal of said corporation, and the said Henshaw and Lee have hereunto set their names and seals the day and year first above written.

THE RUTLAND AND BURLINGTON RAILROAD COMPANY, by  
WM. RAYMOND LEE, *their President*, [L. s.].  
P. HARVEY, *Treasurer*.

SAMUEL HENSHAW, [L. s.] } *Trustees.*  
WM. RAYMOND LEE, [L. s.] }

Executed and delivered in presence of

J. C. PUTNAM,  
GEO. S. HALE.

COMMONWEALTH OF MASSACHUSETTS, } Boston, Feb. 13 A.  
SUFFOLK, ss : } D. 1854.

I, George S. Hale, a commissioner within and for the state of Massachusetts, to take the proofs and acknowledgement of deeds or other instruments to be used or recorded in the state of Vermont, in pursuance of the laws thereof, duly appointed, constituted and qualified, do hereby certify that on the 13th day of February, A. D. 1854, the above named William Raymond Lee, president of the Rutland and Burlington Railroad Company, and trustee as stated in the foregoing instrument, Peter Harvey, treasurer of said company, and Samuel Henshaw, trustee as aforesaid, the signers of the foregoing instrument, personally appeared at Boston, in the county of Suffolk, in said state of Massachusetts, and each severally acknowledged said instrument to be their own free and voluntary act and deed, and the said Lee and the said Harvey acknowledged the same to be the free and voluntary act and deed of the said corporation, to wit, of the Rutland and Burlington Railroad Company, and the said Lee acknowledged the said instrument to be his free and voluntary act and deed, individually, and as president, and as trustee as aforesaid.

Before me, then acting in my said capacity of commissioner. In testimony whereof, I do hereunto affix my hand and seal as such commissioner, at said Boston, on said 13th day of February.

GEORGE S. HALE, *Commissioner*. [L. s.]

### THIRD DEED OF SURRENDER OF THE RUTLAND AND BURLINGTON RAILROAD COMPANY TO TRUSTEES OF SECOND MORTGAGE.

This indenture made and executed, this third day of June, A. D. 1854, by and between the Rutland and Burlington Railroad Company, a corporation duly established by the laws of the State of Vermont of the first part, and Samuel Henshaw of Brookline, in the county of Norfolk, and Commonwealth of Massachusetts, and Thomas Thacher of Roxbury, in said county, of the second part,

*Witnesseth*, That whereas the said Rutland and Burlington Railroad Company did, on the first day of August, A. D. 1853, in conformity with their by-laws and of a vote of the stockholders of said company, execute and deliver to Samuel Henshaw and J. Thomas Stevenson, a certain indenture of trust and mortgage, conveying to them the railroad and franchise of said company, leading from Bellows Falls to Burlington in the State of Vermont, as the same was legally established, constructed or improved, or as the same might thereafter be legally established, constructed and improved, from its junction with the Cheshire Railroad at Bellows Falls, to its present termination at the south line of South Street in said Burlington, with the track of said railroad and roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements, and appurtenances to the said Railroad or the said corporation, appertaining and belonging, and all such as might thereafter pertain or belong to them, together with all the locomotives, engines, passenger, freight and other cars, machinery, tools, implements, utensils, and other articles of personal property whatsoever then owned or used by the said corporation or which they might thereafter own or use, or as the same thereafter might from time to time be changed, altered or renewed by the said corporation or their agents or servants.

To have and to hold the said granted property to the said Henshaw and Stevenson, and to the survivors of them, and their

successors in said trust, (subject to all the restrictions, resolutions and conditions in said indenture contained,) for the uses and purposes set forth in said indenture, and more particularly to secure to such person or persons as should become the holders of the bonds, obligations or promissory notes of said company, specified or referred to in said indenture, the payment of the principal and interest due thereon, the said trustees to suffer and permit the said corporation to retain and hold the exclusive possession and management of the said railroad, so long as the said corporation should make no default in the payment of the principal and interest of the aforesaid notes, and should keep all their covenants in said indenture.

*And whereas*, on the 16th day of November, A. D. 1853, the said corporation, executed and delivered to the said Henshaw and Stevenson a deed of surrender of the possession of all the property, rights and privileges which were conveyed to them by said indenture of August first 1853, to have and to hold for the purposes in said indenture set forth.

*And whereas*, subsequently, to wit: on the 18th day of November, 1853, the said Stevenson presented to the said corporation a written notice, that he should decline further to act in the trust of said indenture.

*And whereas*, said Stevenson was by and pursuant to an order of a court of chancery in the State of Vermont, afterwards duly and legally discharged from said trust, and Wm. Raymond Lee, of Roxbury, Massachusetts, was by the same order and decree of said court, duly appointed trustee, under said indenture in place of said Stevenson, as by said order and decree on record in the county clerk's office in and for the county of Rutland, and State aforesaid, will more fully appear. And said Lee afterward and before the first day of February 1854, accepted and entered upon the execution of said trusts.

*And whereas*, on the first day of February A. D. 1854, the said corporation were unable and did decline and refuse to pay the interest coupons which became due and payable on that day, on the first and second mortgage bonds thereof and payment of the same was duly demanded at the office of its treasurer and payment refused.

*And whereas*, said Henshaw and Lee, trustees as aforesaid in consequence of said non-payment demanded of said corporation



that it should surrender and deliver to them as such trustees, the possession and control of said property, conveyed in trust as aforesaid.

*And whereas*, the said corporation in pursuance of a vote of the board of directors, at a legal meeting thereof holden on the 7th day of February, 1854, did on the same day execute in due form and deliver to said Henshaw and Lee, a deed thereby surrendering to them as trustees aforesaid, all the property both real and personal, pledged to said trustees by the first named indenture and subject to all its provisions. And for the reasons and purposes named in said deed of surrender as by a reference thereto will more fully appear.

*And whereas*, said Henshaw and Lee as trustees aforesaid, thereupon took and had possession of said property by virtue of and under said second deed of surrender, as well as of the one first made as hereinbefore stated.

*And whereas*, the said Lee afterward in writing resigned his said trust, and declined further to act therein, and said Henshaw, the remaining trustee, pursuant to the authority conferred upon him, by the indenture first before mentioned, constituted and appointed Thomas Thacher of Roxbury, Massachusetts, his associate trustee under said indenture, according to the provisions thereof; and such appointment of said Thacher was in order to remove all doubts in relation thereto, duly ratified and confirmed by the court of Chancery within and for the State of Vermont, as by the record thereof in the county clerk's office for the county of Rutland aforesaid, will more fully appear.

*And whereas*, it has been claimed that neither the first nor the second deed of surrender made as aforesaid was valid to transfer the legal possession of said mortgaged property to the aforesaid trustees for want of power in the directors of said corporation to make such surrender until the expiration of four months from the time the interest coupons upon the first and second mortgage bonds became due and payable.

*And whereas*, although said corporation and said trustees, fully believe and will firmly insist and maintain that said first and second deeds of surrender were valid and operative and that said trustees were by either of them fully and legally authorized to take and hold possession of all the property, real and personal, pledged by the indenture first before named for the purposes

therein specified. Yet, for the purpose hereafter of removing all doubts, and completely quieting all adverse claims, that have or can arise in relation to the rights of the trustees aforesaid, to hold the possession of the said property for the purposes aforesaid. The board of directors, of said corporation at a legal meeting holden on the third day of June, 1854, at the office of its treasurer, in Boston, it was unanimously

*Voted* as follows: That whereas doubts had arisen as to the legality and validity of the deed of surrender made by this corporation on the 16th day of November 1853, to the trustees of the second mortgage bonds of the corporation, and doubts had also arisen as to the legality and validity of the deed of surrender made on the 7th day of February 1854, to the trustees under the said mortgage.

*And whereas*, the four months have now elapsed since the interest coupons on the first and second mortgage bonds have become due and payable, and the same coupons remain yet unpaid and the corporation being still unable to pay them.

Now the corporation insisting that both said deeds of surrender were and are legal and valid and operative for the purposes therein named, yet in order to remove all doubts in relation to the right of said trustees to have and retain the possession of, and to use the property and franchise conveyed by, said second mortgage deed for the purposes therein specified, it is unanimously

*Resolved*, That all the property, real and personal, and all the rights, privileges and immunities and franchise conveyed to trustees by said second mortgage be, and hereby are, surrendered to said Henshaw and Thacher, trustees as aforesaid, for the purposes and subject to all the provisions in such deed of trust and mortgage contained.

And that D. A. Smalley, a director and a solicitor of this corporation be, and hereby is authorized and directed for and on behalf of this corporation, and as its agent, to make out, execute and deliver to said Henshaw and Thacher any and all instruments necessary and proper to carry into effect all the purposes of this according to the true intent and meaning thereof and affix thereto the seal of this corporation.

Now therefore, in pursuance of the aforesaid vote, this indenture is made and

*Witnesseth*, That the said corporation in consideration of the<sup>7</sup>

premises, and of ten dollars to it paid by said Henshaw and Thacher, do hereby surrender, yield up, transfer, convey and confirm possession of all and singular the property, real and personal, and all the rights, privileges, immunities and franchise conveyed or intended to be conveyed by said second indenture of mortgage, dated August first, 1853, unto the said Henshaw and Thacher, trustees as aforesaid, for the purposes and subject to all provisions in said indenture contained.

And said corporation do hereby sell, convey and transfer, unto said Henshaw and Thacher any and all property they now own, and which they had purchased for the purpose of operating said road since said first of August, 1853.

To have and to hold the same to said Henshaw and Thacher and their successors, or to the survivor of them, in trust for the uses and purposes in said indenture set forth.

And said Henshaw and Thacher do hereby accept the surrender of possession of said property, and do hereby covenant and agree, that they will by themselves, their agents and servants, hold, use and manage the same, and account for and apply the proceeds thereof for the uses and purposes, and in execution of the trusts stated in said second mortgage of the first of August, 1853.

In witness whereof the said Rutland and Burlington Railroad Company, by said David A. Smalley, its duly authorised agent has affixed its corporate name and seal hereto, and the said Henshaw and Thacher have hereto set their names and seals the day and year first above written.

RUTLAND AND BURLINGTON RAILROAD COMPANY, by

D. A. SMALLEY, *Agent*. [L. s.]

SAMUEL HENSHAW, [L. s.]

THOMAS THACHER, [L. s.]

In presence of

BENJ. H. CURRIER,

GEO. B. GIBBONS.

COMMONWEALTH OF MASSACHUSETTS, }  
COUNTY OF SUFFOLK, ss. }

Be it remembered, that on the third day of June, A. D. 1854, before me, Benj. H. Currier, Esquire, a commissioner of the state of Vermont, appointed by the governor thereof, to take acknowledgement of deeds and other instruments in writing, to be used

or recorded in the said state of Vermont, personally appeared David A. Smalley, the agent of the Rutland and Burlington Railroad Company aforesaid, who as such agent executed the foregoing instrument, and he acknowledged that he had executed the same as such agent, for and as the act and deed of the said company; that the seal affixed to said instrument, purporting to be the seal of the Rutland and Burlington Railroad Company, is the corporate seal of said company: and at the same time appeared Samuel Henshaw and Thomas Thacher, also signers and sealers of the above written instrument, and acknowledged the same to be their free act and deed.

Given under my hand and official seal of the city of Boston, the day and year first above written.

BENJAMIN H. CURRIER, [L. s.]

*Vermont Commissioner in Boston.*

## DECREE IN CHANCERY.

STATE OF VERMONT, } In Chancery, first Judicial Circuit,  
Rutland, ss. } September term, 1855.

ELLIS GRAY LORING, THOMAS THACHER, SAMUEL HENSHAW,  
and DAVID A. SMALLEY, orators, vs. THE RUTLAND AND BUR-  
LINGTON RAILROAD COMPANY, JAMES CHEEVER, WILLIAM  
MINOTT, JR., PARIS FLETCHER, BENJAMIN T. REED, HARRISON  
FAY, SOUTHWORTH SHAW, WILLIAM G. BILLINGS, and BENJA-  
MIN THAXTER.

This case came on for hearing at the September term of this  
court 1855, before the Hon. Robert Pierpoint, chancellor upon  
bill and answer.

The substance of the orators' bill is as follows :

That pursuant to certain resolutions passed at a legal meeting  
of the stockholders of said Rutland and Burlington Railroad  
Company, on the 6th day of February in the year eighteen hun-  
dred and fifty-one, the said company did, by virtue of said author-  
ity and for lawful purposes mentioned in said resolutions, issue  
the notes or obligations (commonly called bonds) of said compa-  
ny, to the amount of seventeen hundred and fifty thousand dollars,  
in sums of one thousand dollars and five hundred dollars each,  
all dated on the first day of said February, and payable in twelve  
years therefrom, with interest as aforesaid, all which notes or  
obligations are outstanding and unpaid, in the hands of numerous  
persons who are legal holders of the same, for full and valuable  
considerations. That pursuant to said resolutions the said com-  
pany did moreover duly execute and deliver an indenture of two  
parts, bearing date of the first day of February in the year  
eighteen hundred and fifty-one, by and between the said company  
and Franklin Haven and Samuel Hooper, of the city of Boston,  
in the commonwealth of Massachusetts, esquires, trustees therein  
named, which said indenture was in all respects well executed,  
duly signed, sealed, acknowledged and delivered by the parties  
thereto, and recorded in manner prescribed by the laws of the  
State of Vermont, the same being hereinafter called "the first

mortgage." That said first mortgage, after reciting the votes of the stockholders of said company above set forth, further witnessed that said corporation did thereby grant, bargain, sell and convey unto the said Haven and Hooper as trustees, the railroad and franchise of said company, leading from Bellows Falls to Burlington in the State of Vermont, as the same was then legally established, constructed and improved, or as the same might at any time thereafter be legally established, constructed and improved from its junction with the Cheshire railroad at Bellows Falls to its then present termination at the south line of South Street in said Burlington, with the track of said railroad and the roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as might thereafter pertain or belong to them, together with all the locomotives, engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatsoever then owned or used by the said corporation, or which them might thereafter own or use, or as the same might thereafter from time to time be changed, altered or renewed by the said corporation or their agents or servants in that behalf; reserving and excepting, as was ordered to be reserved and excepted in the votes of the said company above mentioned, that is to say, reserving to the said corporation the right to convey or to dispose of as they should see fit and proper, such interest in the railway track or roadway and station grounds as might be required for the accommodation of connecting railroads then built or which might thereafter be built or constructed, and to make all needful contracts in respect thereto; also the right to sell, dispose of and convey as they should see fit, all their station lot in said Burlington except twenty acres from the north end of said station grounds lying south of the south line of South Street, and west of the west line of Champlain Street, as then established or as the same might be thereafter established by an extension thereof, also reserving a dwelling house and three acres of land adjoining, situate in Middlebury, in the State of Vermont, conveyed to said corporation by Joesph Warner; also a tract of land and mill privilege situate in Vergennes, acquired by said corporation by virtue of an execution against Samuel Barker, also a dwelling house and lot in said Vergennes acquired

of Abram Satterly ; also twenty-five acres of land in Mount Holly, bought of Amasa Dickerman ; also land purchased of Alanson Meacham, Justin Winslow and Chester Winslow, in the town of Brandon ; also about forty acres of land in the town of Wallingford, purchased of — Fuller ; also about eighteen acres of land in Ferrisburgh, purchased in part of Michael Ball, and part of — Stone, and both used as a gravel pit ;

That said mortgage further witnessed, that the said granted premises were therein conveyed unto the said trustees and the survivors of them and the heirs, executors, administrators and assigns of such survivor, upon the trusts and to and for the ends, intents and purposes following, that is to say : First, in trust for and to secure the payment unto the lawful holder or holders thereof (ratably without preference) of the principal and interest of the obligations or promissory notes so to be issued not to exceed in any event the said sum of one million eight hundred thousand dollars in the aggregate. Second, in trust upon the full payment of the principal sum of the said obligations or notes, with the interest thereon, to re-convey the granted premises unto the said corporation free from all trusts thereby created. Third, upon trust to suffer and permit the said corporation to retain and hold the exclusive possession, use, management, and control of the granted and assigned premises for the proper business and management of the said railroad, until the said corporation should make default in the payment of the principal or interest of the aforesaid obligations or promissory notes, or some thereof. Fourth, upon trust that in case the said corporation should fail, neglect, omit or refuse to pay the principal of, or the interest upon the said obligations or notes, or any thereof, as the same should respectively become due and payable, and such neglect, failure, omission or refusal should continue for the period of four months after payment thereof should have been demanded in writing, the said trustees, or their successors, might by themselves or their attorneys, agents or servants, take possession of all and every description of the property, rights and premises, granted or assigned, or intended so to be, and all such as should be conveyed to them upon the like trusts and purposes, and use and manage the same in their discretion in the same way and manner as the said corporation could or might have done if said indenture had not been made, and to take, hold and receive all the

moneys and profits that might be realized therefrom, and after deducting therefrom all the expenses of running, working and managing the said railroad, including a reasonable charge for their services in the premises, should apply the residue thereof from time to time to the payment of the principal of and the interest upon the said notes and obligations, ratably and without preference or priority. And in case the said corporation should for the period of six months after the same should have become due and payable, neglect, refuse, fail or omit to pay the principal sum or interest of or upon any of the said obligations or notes, after the same should have become due and payable, then, lastly, upon the trust that the said trustees, or their successors (on the written application of the holders of two thirds in amount of such obligations or notes then outstanding in respect whereof there should have been any such failure, neglect, refusal or omission.) should either by themselves, their attorneys, agents or servants enter into and upon all and singular the property and premises thereby given, granted, bargained, sold and conveyed to them, or intended so to be, and all such as should or might be thereafter granted and conveyed to them upon the like trusts and for the like purposes, and should sell and dispose of the same together with the franchise of the corporation, and all their corporate rights by public auction in such manner as is therein set forth, and should pass deeds to convey an indefeasible title thereto to the purchasers, and after deducting from the proceeds of such sale or sales all costs, charges and expenses, including their reasonable compensation in that behalf, and all charges of executing the trusts thereof, should apply the residue to the payment of such of the said obligations or notes, with the interest thereon, as should be outstanding and unpaid, ratably and without preference or priority. And in case there should be any surplus remaining upon full payment and satisfaction of all such obligations or notes, that the said trustees or their successors should pay over the same to the said corporation or its assigns;

That in and by said first mortgage, the said corporation covenanted with the said trustees and their successors, that they would at any and all reasonable times thereafter when thereto requested, make, execute, acknowledge, and deliver all such other and further deeds, assurances and conveyances whatsoever, as might be advised or required by counsel learned in the law for the



better and more fully and effectually assuring and conveying unto the said trustees or their successors in the said trust, the rights, franchise, property and premises therein and thereby granted and conveyed to them, or intended so to be ;

That in and by said first mortgage, it was further provided, that the said corporation should retain the right to convey or dispose of as they should see fit and proper, such interest in the railway, track or roadway and station grounds, as might be required for the accommodation of the connecting railroads then built or which might thereafter be built or constructed, and to make all needful contracts in respect thereto ; also the right to sell, dispose of, and convey as they should see fit certain other parcels of real estate, being the same parcels ordered to be reserved and excepted by the vote of the stockholders hereinbefore set forth ;

That in and by said first mortgage, due provision was made for the substitution of other trustees in the place of those then appointed as often as there should be occasion therefor, and it was also provided that each trustee should receive a compensation for his services ;

That at a meeting of the stockholders of said company, held on the eighth day of June, in the year 1853, the directors thereof were, by votes duly authorized and empowered to issue obligations, notes or bonds of said corporation, to the amount in the aggregate of fifty thousand dollars, of the denomination of one hundred dollars each to be in the same form, bear the same date and rate of interest, and be payable at the same time as the notes or obligations authorized to be issued by the resolutions passed on the sixth day of February, 1851, above set forth or recited ; and said corporation then and there further ordered that the amount of said said obligations notes or bonds of one hundred dollars each, should form a part of the sum of eighteen hundred thousand dollars, previously authorized as aforesaid, and held instead of so much thereof, and should be secured ratably by the same lease, pledge, mortgage and hypothecations. And for the purpose of so securing said bonds of one hundred dollars each, the said stockholders at the same time resolved and ordered that the President and Treasurer of said corporation be authorized and empowered to sign, seal and execute such agreement as should be advised by counsel learned in the law, and to cause the aforesaid notes or obligations of the denomination of one hundred

dollars, to be secured ratably with the notes or obligations of the denomination of one thousand dollars and five hundred dollars each, named in said mortgage as part and parcel to the aggregate amount thereby secured or intended so to be ;

That by virtue of the said authority, and for the purposes aforesaid, the directors of said company issued the notes or obligations, (commonly called bonds,) of said company, to the amount of fifty thousand dollars, all of the denomination of one hundred dollars each ; that said bonds were issued as, and actually formed a part of said sum of eighteen hundred thousand dollars, previously authorized as aforesaid, and conformed in all respects to the orders and resolutions of said corporation authorizing the issue of said bonds for one hundred dollars each ; all which bonds are outstanding and unpaid, in the hands of numerous persons who are legal holders of the same, for full and valuable considerations.

That by virtue of said authority so given on the eighth day of June, 1853, and for the purpose of securing the due payment of said bonds for one hundred dollars each, and of the interest warrants thereto annexed, an indenture and agreement bearing date on the 21st day of July, in the year 1853, was made by and between said corporation of the first part, and the said Haven and Hooper as trustees and mortgagees of the second part, and was annexed to said first mortgage, which said indenture was in all respects well executed, duly signed, sealed, acknowledged and delivered, as advised by learned counsel, by the parties thereto, and recorded in manner prescribed by the laws of the State of Vermont, the same being hereinafter called "The modification of the first mortgage."

That said indenture or modification, after reciting the vote of the stockholders of said company above set forth, further witnessed that said first mortgage was by said indenture so far varied and altered that the directors of said corporation were fully authorized and empowered to issue as part and parcel of said sum of eighteen hundred thousand dollars, notes or obligations of said corporation of the denomination of one hundred dollars, to the extent and amount of fifty thousand dollars, to be in lieu of the same amount of notes and obligations of the denomination of five hundred and one thousand dollars, provided for in said first mortgage.

That said indenture or "modification" further provided that said notes or obligations of the denomination of one hundred dollars, should be secured by said first mortgage ratably with the notes or obligations of the denomination in said first mortgage named, as part and parcel of the therein named aggregate of eighteen hundred thousand dollars, and that the respective holders of said bonds for one hundred dollars each should be entitled to all the rights, privileges, benefits and immunities whatsoever, which the holders of the notes or obligations described in said first mortgage were in any manner, way or form entitled unto.

That in and by said indenture or "modification," the said corporation did further bargain, sell, convey and confirm to said Haven and Hooper, trustees as aforesaid, and the survivor and their successors and assigns, all and singular the property, franchises, immunities and privileges mentioned and described in said first mortgage, to have and to hold upon the same trusts and for the same uses and purposes as were set forth and declared in said first mortgage, and as the same were modified and changed by said indenture or "modification."

That such proceedings have been had, that the said Franklin Haven and Samuel Hooper have ceased to be trustees under said first mortgage, and said Ellis Gray Loring and Thomas Thacher have been duly appointed their successors in said trust, and now are trustees under said first mortgage.

That on the first day of August in the year eighteen hundred and fifty-four, the interest for the term of six months then preceding was due and payable on all the first mortgage bonds, and that on the fifth day of the same August the payment of said interest upon certain of said first mortgage bonds was demanded in writing by the holders thereof, at the office of the said corporation in Boston, of the president and treasurer of said company, who then and there neglected and refused to pay the same, and that such neglect and refusal had continued for the period therefrom and until the time of filing the plaintiff's bill, of all which all parties in interest thereto have had due notice.

That pursuant to certain resolutions passed at a legal meeting of the stockholders of said company, on the eighth day of June, in the year eighteen hundred and fifty-three, the said company did, on or about the first day of August thereafter, issue their

further bonds or obligations hereinafter called "The second mortgage bonds," for the further sum of twelve hundred thousand dollars, with interest thereon evidenced by interest warrants or coupons attached, hereinafter called "The second mortgage coupons," payable semi-annually, at the rate of seven per cent. per annum, all which bonds are outstanding and unpaid in the hands of numerous persons who are legal holders of the same, for full and valuable considerations.

That pursuant to the resolutions passed at the meeting last aforesaid, the said company did, on or about said first day of August, in the year eighteen hundred and fifty-three, duly execute, acknowledge and deliver another indenture of two parts, hereinafter called "The second mortgage," bearing date on the first day of said August, between said corporation of the first part, and the said Samuel Henshaw and J. Thomas Stevenson of said Boston, Esquires, as trustees, of the second part, and that said trustees then and there on their part executed, acknowledged and delivered said indenture.

That in and by said second mortgage, it was recited that by said first mortgage, the said company had granted, bargained, sold and conveyed unto the said Haven and Hooper, the railroad and franchise of said company leading from Bellows Falls to Burlington, in the State of Vermont, as the same was legally established, constructed or improved, or as the same might thereafter be legally established, constructed and improved, from its junction with the Cheshire railroad at Bellows Falls, to its termination at the south line of South street in said Burlington, with the track of said railroad and roadway, and all the lands, buildings, depots, station houses, freight houses, privileges, fixtures, easements and appurtenances to the said railroad or the said corporation appertaining or belonging, and all such as might thereafter pertain or belong to them, together with all the locomotives, engines, passenger, freight and other cars, machinery, tools, implements, utensils and other articles of personal property whatever, then owned or used by said corporation, or as they might from time to time be changed, altered or renewed by the said corporation or their agents or servants (with certain reservations and exceptions therein contained and as hereinbefore set forth) upon the trusts and for the uses and purposes therein set forth and declared.

That in and by the second mortgage it was further recited, that the said first mortgage had been modified and changed in some particulars, by a subsequent arrangement between the same parties dated July twenty-first, eighteen hundred and fifty-three, being the modification herein above set forth.

That said second mortgage further recited that the stockholders in said company had authorized "an additional or second mortgage of the same property and premises as are mentioned and described in the indenture first hereinbefore named.

That said second mortgage thereupon granted to the parties of the second part thereof, "all and singular the lands, buildings, tenements, hereditament, franchise, road rights, easements, immunities, privileges, whatsoever, and the property, and premises whatsoever mentioned, specified, described or referred unto, in the indenture first hereinbefore mentioned and thereby granted and conveyed with the exceptions and reservations herein mentioned and specified, and subject to the provisions of the last named indenture, and of the indenture bearing date July twenty-first, eighteen hundred and fifty-three, and the trusts thereof and the lien, pledge, mortgage, and hypothecation thereby imposed or created."

That said second mortgage further provided that the trustees therein named should have and hold the granted premises with all the rights, privileges, benefits and advantages thereof and thereto belonging, "but subject as aforesaid" for the security of the second bondholders and for and upon the trusts therein at large set forth, but especially upon the trust that in case the said corporation should fail to pay the principal of, or interest upon, said second bonds or any of them, as the same should respectively become due and payable, and such default should continue for the space of four months after payment thereof should have been demanded in writing, the said parties of the second part thereof, or their successors in said trust might by themselves or their attorneys, agents or servants, take possession of all the said property, rights and premises, and all such as should be conveyed to them upon the like trusts and purposes, and use and manage the same in their discretion, in the same way and manner as the said corporation could or might have done if said indenture had not been made, and to take, hold and secure all the monies and profits that might be realized therefrom, and after deducting there-

from all the expenses of running, working and managing the said railroad, including a reasonable charge for their services in the premises, should apply the residue thereof from time to time, to the payment of the principal of, and interest upon, the said notes or bonds ratably, and without preference or priority.

And upon the further trust, in case such default should continue for the space of six months, then (on the written application of the holders of two-thirds in amount of said second bonds then outstanding, in respect whereof there should have been any such default) to enter upon the granted premises, and to sell and dispose of the same in manner therein fully and at large set forth.

That such proceedings have been had, that the said J. Thomas Stevenson has ceased to be a trustee under said second mortgage, and said Thomas Thacher has been duly appointed his successor in said trust, and that said Thomas Thacher and Samuel Henshaw are now the trustees under said second mortgage.

That on or about the nineteenth day of May, in the year eighteen hundred and fifty-four, the said company made a third mortgage of all their property and estate, rights and franchises to the said Thomas Thacher and to the said David A. Smalley; to have and to hold the same, subject nevertheless to the lien and claim created by the first and second mortgages aforesaid, which said third mortgage was for the benefit and security of such persons as should become holders of a third class of bonds and of the interest warrants thereto annexed, and that certain of said third class bonds were duly issued.

That the first, second and third classes of bonds aforesaid are all negotiable by delivery, and that it is not reasonably practicable to ascertain who are now the holders of the same, but that the plaintiffs are informed and believe that James Cheever, of the city of Boston, merchant, and William Minot, junior, of said Boston, counsellor-at-law, both defendants are severally the holders of a large amount of said first class bonds; that Paris Fletcher of Bridport, in the county of Addison, and State of Vermont, merchant, Benjamin T. Reed, Harrison Fay, and Southworth Shaw, all of said Boston, merchants, defendants, are severally the holders of a very large amount of said second class bonds; and that William G. Billings and Benjamin Thaxter of said Boston, merchants, defendants are severally the holders certain of said third class of bonds.

That the said corporation on three different days, namely on the sixteenth day of November, in the year 1853, on the seventh day of February, in the year 1854, and on the third day of June, in the year 1854, has executed and delivered written surrenders to the trustees under said second mortgage of all the real and personal property, rights, franchise and privileges of said corporation, and that said corporation has delivered actual possession to the trustees under the second mortgage of all the real and personal property, rights, franchise and privileges of said corporation, and that the said Thacher and Henshaw, as second mortgagees, are now in possession of the same, and as such second mortgagees have also received and are now in possession of sundry amounts of money and other property, being the profits and earnings of said road.

That the said Loring has demanded (in behalf of the trustees under said first mortgage) of the said Thacher and Henshaw, as trustees under the second mortgage, to give him possession of all the real and personal estate, franchise and rights of said corporation, and to account for and pay over to the said Loring in behalf of the first mortgage trustees all said moneys, profits and earnings, which the said Thacher and Henshaw desiring to act under and according to the direction of this court, have thus far declined to do.

That in the month of January last, separate meetings of the first and second classes of bondholders were called by public notice, and held in the city of Boston, which meetings were very numerously attended by (as the plaintiffs believe) a very large majority in interest of the first and second classes of bondholders, that at each of said meetings a report was presented of precisely the same tenor and effect, a copy of which report is as follows :

**"RUTLAND AND BURLINGTON RAILROAD.**

*Terms of Arrangement between the First and Second Mortgagees.*

The committees appointed respectively by the holders of the first and second mortgage bonds of the Rutland and Burlington Railroad Company, having conferred together in a spirit of conciliation, and maturely considered the interests and rights of those whom they represent ; having moreover had the benefit of eminent legal counsel, and been impressed with the injury which must accrue to both classes of the bondholders, and to the public,

from a litigation of their respective claims, have adopted the following basis of a settlement, the substance of which they are prepared to recommend to their constituents as reasonable in its provisions and calculated to promote the interest of every individual of the two classes of claimants.

"1. The whole real and personal property of the corporation is to remain until February 1st, 1863, in the hands of the trustees of the second bondholders, who are to run and use the road in the most discreet and productive manner, and from the earnings are at all times to keep the same with its appurtenances, equipment, rolling stock and materials in thorough repair, and full and constant supply, so that the entire property shall be at all times in the highest state of efficiency for the advantageous transaction of business.

"2. From the gross earnings the said trustees are to pay in the first place the charges and expenses of transacting the business, including all necessary and proper purchases, renewals and repairs.

"3. In every July and January while said trustees or their successors shall hold the property, they shall ascertain as nearly as may be, the amount of net earnings realized by them up to that time, and on the first day of the succeeding month they shall apply the same towards the pro rata payment of all the first mortgage interest coupons which shall then be due and payable, provided, however, that among said coupons, if any shall have fallen due earlier than the others, the earlier due shall have the preference in payment. And if, after paying all the first mortgage coupons then due, there shall then be a surplus of net earnings, the said trustees shall pay the same to the said second and third bondholders, according to the order of their respective claims, it being understood that from this date, no interest is to be paid to the second bondholders while any of the interest on the first bonds is in arrear.

"4. The first trustees are to have a lien (subject to the terms of this agreement) on all property which has or may hereafter come into the hands of the second trustees; and at the maturity of the first mortgage bonds, or any previous failure to carry out the foregoing stipulations, they are to have quiet possession of all said property, to be administered according to the terms of their trust.

"5. The substance of this agreement incorporating all necessary details and proper safeguards for the protection of the trus-



tees and bondholders shall, if found practicable, be framed into a decree of the court of chancery of the State of Vermont in such manner as shall make it binding upon all parties concerned.

"6. It is understood that the entire property which may be in the hands of the trustees of the second mortgage, under this arrangement, including the road bed shall at all times be liable to indemnify them against any liability which they may in good faith incur, by reason of any accident, disaster or unavoidable loss in the management of the concerns of the road to the same extent in all respects as they would be to indemnify the trustees of the first mortgage while in possession under the first mortgage."

That at each of said meetings a vote was taken upon said report and the same was accepted, adopted and approved by a unanimous vote, and the said trustees were requested to take such action as might be lawful and proper to carry out the same. That the "terms of arrangement" between the first and second mortgagees or those whom they respectively represent, as contained in said report, are as the plaintiffs believe, unanimously and most cordially approved of by every individual interested in the first, second or third classes of bonds, and that an arrangement based thereon and to be carried into effect by a decree of this court, is desired not only by the first and second bondholders, but would be acceptable to all persons having an interest in any manner in said company or its property;

That in the opinion of eminent counsel the mutual rights and remedies of the first and second mortgagees are attended by most grave and painful doubts; that a litigation between them might be protracted to great length at enormous expense and with the most serious if not irreparable injury to the public interest as well as to the stockholders and creditors of the said corporation; that the plaintiffs are fully of the opinion that the arrangement proposed in said report and accepted by said creditors is just and reasonable, in harmony with the spirit of the said several trusts and beyond comparison better both for their constituents and the public, than any course that could be adopted;

That it is believed that the proposed arrangement if it can be promptly established, must have the effect within no long period of realizing to the first bondholders their accrued and accruing interest, which result (it is represented to the plaintiffs,) will

heal the breach of condition of the first mortgage. And that it is represented to the plaintiffs that said contemplated arrangement is therefore analogous in its character in this respect to a simple stay of execution, or a mere extension of time for the payment of the interest due to the first mortgagees.

And in and by the plaintiffs bill they represented that they were exceedingly desirous that after such notice as the court might deem just and reasonable so that all persons interested might have an opportunity to be heard, the court would instruct and direct the plaintiffs in respect to all the matters set forth in said bill and in relation to their respective rights, claims and duties as trustees and mortgagees. And in and by said bill the plaintiffs moreover pray that all the holders of the first, second and third classes of bonds and obligations aforesaid may, after due notice and full opportunity given to come into court and become parties hereto, be bound by all the proceedings in this case, and that the court will adjudicate and decree as between the plaintiffs, all questions arising upon the facts stated in said bill or in defendant's answers, and all questions arising thereon between them or any of them and any other persons who are or can be bound by such adjudication and decree and will determine who shall have possession of all the real and personal estate, franchise and rights of said corporation, and of all the monies and profits which have been or may be earned as set forth in the plaintiffs bill and upon and for what trusts and purposes said estate, franchise, rights, monies, profits, and earnings shall be held and appropriated—and for further relief,

Whereto the defendants by their answer alleged that they admitted the statements in the plaintiffs' bill to be true and as in the bill is mentioned in that behalf, and consent that so far as they are concerned, the plaintiffs' bill be taken as confessed. And the defendants by their said answer further allege that they are convinced that the "terms of arrangement" set forth in the plaintiffs' bill, would, if carried into effect by a decree of the court, conduce greatly to the public good, and would promote the interests not only of the first, second and third classes of bondholders, but of all persons in any manner interested in the capital stock, bonds or debts of the Rutland and Burlington Railroad Company; that said "terms of arrangement" are entirely conformable to equity and good conscience, and that they pray the court

to recognize and establish the same by suitable orders and decrees. And it further appearing that proper, legal and sufficient notice had been given to all parties interested in the matter and things contained in said bill and answer, and the whole case and the subject matter thereof having been submitted to the chancellor for his judgment and determination in the premises without argument or further proceedings, it was upon full consideration thereof, ordered, adjudged and decreed by said court of chancery as follows, viz :

*First*—That the whole property, both real and personal of the Rutland and Burlington Railroad Company which was covered by or embraced in either said first, said second, or said third deeds of trust and mortgage, executed by said railroad company as stated in the orator's said bill and all the property both real and personal which has been or hereafter may be purchased or in any otherwise acquired by the trustees of and under said second deed with the trust funds accruing from the earnings of said road, and its property, real or personal, shall remain until the first day of February, in the year of our Lord eighteen hundred and sixty-three, in the possession and under the control and management of the trustees duly appointed by or under the second deed of trust and mortgage set forth in the orator's bill, and dated the first day of August, in the year eighteen hundred and fifty-three ;

That said trustees shall operate and use said railroad and all the property both real and personal hereinbefore described, in a prudent, judicious, discreet and efficient manner, according to their best judgment and ability, so as to obtain and realize therefrom the largest amount of net income, and shall from the net earnings and proceeds thereof at all times keep the said road and all its appurtenances, equipments, rolling stock and materials, and all the property, both real and personal, hereinbefore described, in good thorough repair, and at all times keep on hand a full and suitable supply of equipments, rolling stock and other necessary materials for operating said road so that said property both real and personal, shall be constantly kept in a high state of efficiency for the advantageous transaction of business over the whole line of said road.

*Second*—That from the earnings and receipts of the business thereof, including the amount heretofore earned and received and not previously expended by said trustees, and the amount received

from other sources, if any, on account of said property, they, the said trustees shall pay—first, all the charges and expenses of managing and transacting the aforesaid business, including purchases of real and personal property necessary and expedient to the most full and efficient use of said trust property, so that it may produce the largest net income therefrom, and for renewals and repairs thereof, and also a suitable and proper compensation to the trustees under each of the several deeds of trust and mortgage in the orator's bill set forth, subject in case of difference to the further order of this court, and also all reasonable costs and charges of defending the title to said trust property or any part thereof, and making out, adjusting and settling all the accounts of said trustees by this court as hereinafter provided, and of protecting the franchise of said railroad corporation, by keeping up and maintaining the legal organization thereof according to the requisitions of its charter and the laws of the State of Vermont.

That in every January and July hereafter, while the trustees under said second deed of trust and mortgage, shall retain the possession and management of said trust property, they, the said second trustees shall ascertain as nearly as may be the net earnings realized by them from the business of said trust property in any manner acquired up to that time, and on or before the tenth day of the succeeding month shall apply the amount of the said net earnings realized towards the payment of all the first mortgage interest coupons which shall then be due and payable, provided, however, that if among said coupons any shall have become payable earlier than others, the earliest payable shall be first paid and satisfied.

And if, after paying all the coupons secured by the first deed of trust and mortgage then due and payable, there shall remain a surplus of net earnings realized as aforesaid, said trustees shall apply such surplus toward the pro rata payment of all the interest coupons secured by the second deed of trust and mortgage, which shall then be due and payable, in the same order as hereinbefore directed as to the coupons secured by the first deed. And if after paying all the interest coupons secured by said second deed, which shall then be due and payable, there shall still remain a surplus of net earnings realized as aforesaid, the said trustees shall apply the same toward the pro rata payment

of all the interest coupons secured by the third deed of trust and mortgage hereinbefore described, which shall then be due and payable.

And it is further ordered and decreed that no interest coupons secured by the second and third deeds aforesaid, shall be paid until all the interest coupons secured by the first deed aforesaid, which shall then be due and payable, are paid and satisfied, or a sufficient amount of funds reserved by said trustees to pay the same.

*Fourth.* That the trustees created by and under the first aforesaid deed of trust and mortgage and their successors shall hold, subject to the terms and provisions of this deed, a lien on all the property, both real and personal, which has or may hereafter come into the possession of the trustees under said second deed, by virtue and in consequence of said trust. And at the maturity of the principal of the obligations secured by said first deed, or any previous failure to carry out the terms and provisions of this decree, the trustees under said first deed are authorized and empowered to enter upon and take possession of all the property both real and personal, which the trustees under said second deed may have obtained from any and all sources by virtue of and belonging to the trust aforesaid, to be held and administered upon by the trustees under said first deed, according to the terms and conditions contained in said first deed, and under the order and direction of this court, unless the obligations secured by said first deed shall be paid and satisfied. And if all such obligations shall have been fully paid and satisfied from any source, then all the aforesaid trust property, both real and personal, shall be and remain in the possession of the trustees under said second deed of trust, to be held, administered upon, and disposed of pursuant to the terms and conditions thereof, and under the order and direction of this court, unless the obligations secured by said second deed, shall be fully paid and satisfied, and if so paid and satisfied from any source whatever, then in that event the trustees under said second deed shall surrender said trusts, both real and personal, including money and demands, to the trustees under said third deed of trust. And the trustees under said last named deed shall hold, administer and dispose of said trust property according to the terms and conditions of their said deed of trust, and under the order and direction of this court,

unless all the obligations secured by said third deed shall be fully paid and satisfied. And if said obligations shall all be fully paid and satisfied, then the trustees shall surrender and deliver up to the legal officers of the Rutland and Burlington Railroad Company, duly authorized to receive the same, all the property, both real and personal, including all the demands, rights, and monies belonging to said trust property. The trustees under said second deed shall at all times have a lien upon the entire property, both real and personal, including demands and choses in action which may be in their possession, or under their control, to indemnify and save them, and each of them, harmless from any and all liabilities which they, or either of them, may in any way in good faith incur in the management of said trust, or any of the property thereof, and if necessary therefor, they are authorized and empowered to sell and dispose of enough of said property to pay and satisfy any and all such liabilities. And for the better protection of said trustees under said second deed they are authorized and empowered to retain in their possession unexpended and undistributed, twenty-five thousand dollars, so long as such liabilities may exist against them, or either of them, as a contingent fund therefor.

So long as said trustees shall control and manage the trust property hereinbefore described, they shall in the month of September of each year make out and file in the office of the clerk of this court a full and accurate report of their acts and doings with and in relation to said trust property, the business done thereon and therewith, and of the receipts therefrom and payments made on account thereof for the year ending the thirty-first of August next previous, and shall immediately give public notice of such filing, by publishing a notice thereof three weeks successively in three newspapers, one published in the city of Boston and commonwealth of Massachusetts, and one in the town of Burlington and one in the town of Rutland, and state of Vermont, which publications shall be deemed to be sufficient notice to all persons and parties interested, to appear and object to and show cause why said account shall not be adjusted, allowed, and finally settled. And unless good cause be shown to the contrary, said trustees may have all their accounts in relation to said trust property finally adjusted and settled

each year by this court, or some officer thereof, duly appointed therefor.

Dated at Rutland, in the county of Rutland, this 3d day of October, A. D. 1855.

R. PIERPOINT, Chancellor.

STATE OF VERMONT,  
RUTLAND COUNTY CLERK'S OFFICE. }

I, F. W. Hopkins, Clerk of the Court of Chancery, within and for said county, do certify that the foregoing is a true copy of the decree in the above entitled cause, as appears by the records of said court.

Dated at Rutland aforesaid, under my hand and the seal of said Court of Chancery, this 22d day of December, A. D. 1857.

F. W. HOPKINS, Clerk.

# APPENDIX.

## REVISION OF THE GENERAL STATUTES.

TO TAKE EFFECT AUGUST 1, 1863.

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### CHAPTER 28.

#### OF RAILROADS AND RAILROAD COMMISSIONERS.

SEC. 1. All railroad companies that have been or that shall hereafter be incorporated, under the authority of this state, shall have all the powers and privileges, and be subject to all the duties, liabilities, and other provisions contained in this chapter respecting such corporations, so far as the same are consistent with their respective charters.

#### THEIR INCORPORATION, ORGANIZATION, AND GOVERNMENT.

SEC. 2. Every act of incorporation for a railroad company shall confine the road within the limits indicated by the notice required in section one of chapter three of the general statutes, shall specify the several towns through which the same may pass, and shall otherwise designate the route, on which the road may be authorized to be made, with as much certainty as the nature of each case will admit.

SEC. 3. The immediate government and direction of the affairs of every such corporation shall be vested in a board of not less than five directors, who shall be chosen by the members of the corporation in the manner hereinafter provided, and shall hold their offices until others shall be duly elected in their places; and the said directors shall elect one of their own number to be president of the board, who shall also be president of the corporation; and they may also choose a clerk, who shall



reside and keep his office in this state, and who shall be sworn to the faithful discharge of his duty, and a treasurer, and also such subordinate officers as the company by its by-laws may designate, who shall give bonds to the corporation, in such sum as shall be required by the by-laws, for the faithful discharge of the duties of their office. A majority of the directors shall form a board, and shall be competent to transact the business of the company.

#### STOCK SUBSCRIPTIONS.

SEC. 4. The commissioners for opening books of subscription, named in any act of incorporation, shall, from time to time, after the company shall be incorporated, open books of subscription to the capital stock of the company, in such places, and after giving such notice, as a majority of them shall direct, which books of subscription shall be kept open until all the capital stock shall be subscribed, if the corporation shall so long exist, and in case a greater amount of stock shall be subscribed than the whole capital stock of such company, the commissioners shall distribute such capital stock as equally as possible among the subscribers, but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any subscriber than such subscriber shall have subscribed for.

SEC. 5. Every person subscribing for stock in any railroad in this state, shall be required to pay to the commissioners, at the time of subscribing, five per centum on the amount of stock for which he shall subscribe, and shall, if required by the commissioners, give security to their satisfaction for the payment of fifteen dollars more on each share, in such installments as may be ordered by such company; and each subscriber shall be a member of such company. All subscriptions for stock shall be payable absolutely, and no secret agreement, nor any understanding or condition not inserted in the terms of the subscription, shall effect the right of the corporation to enforce payment thereof as hereinafter provided.

#### MEETINGS, VOTES, ELECTIONS.

SEC. 6. As soon as practicable after said stock, or such portion thereof as may be prescribed in the act of incorporation,

shall have been subscribed, the commissioners to receive subscriptions shall give at least ten days' notice for the meeting of the stockholders, at such time and place as said commissioners shall appoint, for the choice of directors, by publishing the same in such newspapers as they shall direct; and such elections shall then be made by ballot by the stockholders, who shall attend for that purpose, either in person or by proxy. Said commissioners shall be inspectors of the first election of directors, shall openly count the votes and declare the result, and shall certify the names of those duly elected, and shall also deliver to said directors all monies received by such commissioners on subscriptions to such capital stock, and all books and papers in their possession relating to such subscriptions. The time and place for the first meeting of said directors shall be fixed by said commissioners. A new election of directors shall be made annually, at such time and place, and upon such notice, as shall be designated in the by-laws of the corporation; but if the by-laws contain no provision upon the subject, then at such time and place, and upon such notice, as the directors shall designate.

SEC. 7. In case it shall happen at any time that an election of directors shall not be made on the day designated in the by-laws of any railroad company, when it ought to have been made, the company for that reason shall not be dissolved, if within ninety days thereafter they shall hold an election for directors in such manner as shall be provided for by the said by-laws.

SEC. 8. At all meetings of the corporation, each member shall be entitled to one vote for each share held by him; provided, that he shall not be entitled to any vote for any shares beyond one-tenth part of the whole number of shares of the stock of such corporation; and all meetings shall be called and notified in such manner as shall be provided in the by-laws of such corporation.

#### SHARES AND ASSESSMENTS THEREON.

SEC. 9. The shares in the capital stock of any railroad corporation shall be deemed personal estate, and may be transferred by any conveyance in writing, in the manner provided by the by-laws of such corporation, and shall be liable to attachment and sale under legal process, in the manner provided for in chapter eighty-six relative to private corporations for the attachment

and sale, under legal process, of the shares of their capital stock.

SEC. 10. The president and directors of every railroad corporation, may, from time to time, make such equal assessments on all the shares in said corporation as they may deem expedient and necessary for the purposes of the corporation, and may direct the same to be paid to the treasurer, who shall give notice thereof to the stockholders, either personally or by letter through the mail, or by publication in such newspaper as the directors shall designate: and if any stockholder shall neglect to pay his assessments, for the space of thirty days, after notice from the treasurer, the directors may order the treasurer, after giving notice of the sale, to sell such shares at public auction, to the highest bidder, and the same shall accordingly be transferred to the purchaser; and if the shares of any delinquent stockholder shall not sell for a sum sufficient to pay his assessment, with interest and charges of sale, he shall be held liable to the corporation for any deficiency; and if such shares shall sell for more than the assessment, so due, with interest and charges of sale, he shall be entitled to the surplus remaining after such sale; provided, that no assessment shall be laid upon any shares in such corporation, to a greater amount than the sum at which the shares shall be fixed by the charter of such corporation, or by any vote or agreement of the stockholders. The purchasers and owners of the shares so purchased, shall be liable for all subsequent assessments thereon, and payment thereof may be enforced in the manner above provided.

SEC. 11. No railroad corporation, which is authorized by its charter to increase its capital stock, shall hereafter, issue shares for a less amount, or sum, to be actually paid in on each, than the par value of the shares in the original stock of said corporation, unless all the stockholders in such corporation shall, in writing, agree that such shares may be issued for a less sum.

SEC. 12. Every railroad corporation, however, within this state, for the purpose of building or furnishing their respective roads, or the payment of their just debts, may issue stock, guaranteeing thereon a certain dividend not exceeding eight per cent. per annum, for such term of time as they may deem expedient; and such contract or guarantee shall be binding on the corporation: Provided, however, no such stock shall be issued by the

directors of any railroad corporation until the stockholders of such company, at a legal meeting to be called for that purpose, shall have voted to issue the same.

RIGHT TO TAKE LAND, ETC., AND PROCEEDINGS THEREON.

SEC. 13. Every railroad corporation may lay out its road, not exceeding five rods wide ; and for the purpose of cuttings, embankments, and procuring stone and gravel, may take as much more land, within the limits of its charter, in the manner provided in this chapter, as may be necessary for the proper construction and security of the road.

SEC. 14. Railroad companies, already incorporated or which may be incorporated hereafter under the authority of this state, may enter upon and take lands as far as may be necessary for depot accommodations ; subject to all the provisions of the laws of this state, and the conditions and provisions of their several acts of incorporation.

SEC. 15. Every railroad corporation may purchase, or otherwise take, any lands, or materials, necessary for the purpose of making or securing their railroad ; and may also take, by purchase or otherwise, such water, and in such quantity, as may be required for the uses of the road, together with the right of laying down all necessary aqueducts, for the conveyance of water, and of entering upon the land, and constructing, and keeping in repair, all such aqueducts ; and if they shall not be able to obtain such land, or materials, or such water, and the right of conveying the same, by an agreement with the owner thereof, they shall pay therefor such damages as shall be estimated and determined by the commissioners appointed in pursuance of the provisions of this chapter for the assessment of land damages : Provided, however, that no railroad corporation shall have the power to take, otherwise than by purchase, any water or spring of water which the owner thereof shall require for the reasonable and convenient use of his own premises ; and where such owner and the corporation cannot agree as to what water is necessary for the reasonable and convenient use of such owner's premises, the corporation shall first apply to commissioners to determine the same before taking such water, and give such owner twelve days' notice in writing of the time and place when such application will be heard.

SEC. 16. No land without the limits of their road shall be

taken by any railroad corporation for the requisite and convenient accommodation of their road, without the permission of the owner thereof, unless the commissioners, on the application of the corporation, and after twelve days' notice to the owner, shall first prescribe the limits within which such land shall be taken.

SEC. 17. Whenever any railroad corporation shall not have acquired, by gift or purchase, any land, real estate, or property, taken or required for the construction and maintenance of their road, and the convenient accommodation of the same, and in case the parties do not see fit to agree about the price of such lands and other property, any two of the judges of the supreme court, upon application for that purpose, by such company, shall appoint three disinterested commissioners to determine the damages which the owner or owners of such lands or property may have sustained, or shall be likely to sustain, by the occupation of the same for the purposes aforesaid; and upon the payment of the damages determined upon by such commissioners, with the costs and charges thereupon accruing, by said company, or upon the deposit of the same by such company in such bank, or with such clerk of the supreme court, as said commissioners shall direct, to the credit of the person or persons to whom such damages have been awarded, such bank or clerk giving notice personally, or by letter through the post office, to such persons, that such deposit has been made, such company shall be deemed to be seized and possessed of all such land or other property as shall have been appraised by said commissioners. One of said commissioners shall be an inhabitant of the town in which the land or other property to be appraised is situated, and all of said commissioners shall be inhabitants of the county in which such property is situated, and said commissioners shall give twelve days' notice to the occupants or owners of the lands to be appraised, of the time and place when and where they will attend to such appraisal; and when such appraisal is made, they shall, within twenty days, notify the owner, if known, of the amount thereof, and deliver to said company a written statement of the same, with a description of the land or other property so by them appraised, which, within thirty days thereafter, said company shall cause to be recorded in the town clerk's office of the town where such land or other estate lie; and in case the owner of such lands or estate shall be a married woman, an

infant, idiot, or insane, or shall not reside in this state, or shall not be known, then said company shall cause the damages sustained by such owners to be determined in the manner above prescribed, and shall pay the same to the lawful owners, when demanded, with the interest thereon, which said damages and interest shall be a specific lien upon the real estate of such company, and be preferred before any other demand against said company: Provided, however, that no notice shall be required to be given of the appraisal of unoccupied lands, unless the owner or owners shall reside in this state, or has some known agent or attorney residing therein; and if such owner or owners shall not reside within this state, and shall have a known agent or attorney residing therein, the same notice shall be given to such agent or attorney as is directed to be given to the owner or occupant.

Sec. 18. Should the company, or the owner of any land or property, feel aggrieved by the decision of the commissioners, either party may, within ninety days after the date of such award, appeal to the county court in the county where the land or other property lies; and such court shall thereupon appoint three commissioners, one of whom shall be an inhabitant of the county in which such land or property is situated; and the decision of such court shall be final upon the report of said commissioners, and costs may, in the discretion of such court, be taxed and allowed to either party: Provided, that no appeal shall be taken by the corporation after deposit of the amount of the award, nor shall an appeal be taken by the landholder or owner after acceptance of the amount of the award.

Sec. 19. At least ten days before any appraisal shall be made by the commissioners, of any lands or other property taken by any railroad corporation, for the purposes of the road, such corporation shall deliver to the owner, or deposit in the town clerk's office in the town in which the same is situate, a plan or description in writing of the land or property so taken.

Sec. 20. Whenever, for the purposes aforesaid, any such corporation shall require lands subject to dower, or to an estate for life, or years, the commissioners shall appraise the damages to such right of dower, or other estate for life, or for years, and also the damages to the reversionary interest.

SEC. 21. Whenever any railroad corporation, which has been or may be chartered, shall require, either for roadway or building materials, any lands, the owner or owners of which are unknown, or where there are conflicting claims to the title, or where such lands are encumbered by mortgages, attachments, or the levy of executions, or otherwise, such corporation, after having the damages appraised by the commissioners, may, if they think fit, apply by petition to a chancellor, and such chancellor may, in his discretion, order the damages awarded by the commissioners to be deposited with the clerk of the court, or in some bank in the county where such land is situated, subject to the order of such person or persons as said chancellor shall decide to be legally and equitably entitled to the same, or subject to the future order of a chancellor.

SEC. 22. No final decree shall be made in such case, until reasonable notice shall have been given to all persons interested, when they are known, and resident in this state, of the filing of such petition; and when the owners are unknown, or reside without this state, such notice shall be given as the chancellor shall order, by publication or otherwise.

SEC. 23. On the deposit of the damages awarded under the order of a chancellor, the title to such lands shall vest in such corporation, subject to the right of appeal, as in other cases, and if the sum so deposited shall remain for six months undemanded, a chancellor may order the same invested for the benefit of those interested.

SEC. 24. Every such corporation may cause such examinations and surveys for the proposed railroad to be made, as may be necessary to the selection of the most advantageous route for the railroad; and for such purpose, by their officers, agents and servants, may enter upon lands or waters of any person, but subject to responsibility for all damages which they shall do thereto; but for no other purpose, without the consent of the owner, shall they be permitted to make such entry, until the damages have been agreed upon by the parties, or ascertained and paid to the owner, or deposited, as hereinbefore directed.

SEC. 25. Whenever any railroad corporation shall, in the laying out, building, grading, or making of their road, cause any obstruction to the travel or means of access to any manufactory, mill, place of business, or dwelling house, or shall continue such

obstruction, such corporation shall be liable to pay to the person thereby injured such reasonable compensation as the commissioners for determining railroad damages shall deem proper. The person so claiming to be aggrieved shall make application in writing, to the commissioners, setting forth such grievance, and such application, with a notice from the commissioners to the corporation of the time and place of hearing, shall be served on the corporation in due form of law.

SEC. 26. In every case where a railroad company have entered upon, taken possession of, and used land and real estate for the construction and accommodation of their railroad; and in every case where a railroad company have, by their engineers, agents or servants, with teams, carriages, and tools, or otherwise, entered upon land contiguous to their railroad, or the works connected therewith, and dug, blasted, and carried away, any stone, gravel or earth, or taken any other materials to use in the construction of their road, and shall not have paid the owner therefor, nor, within two years from such entry, had the damages appraised by commissioners, and an award made and duly delivered, the ordinary courts of law shall have jurisdiction thereof, to wit: justices of the peace, if the claim does not exceed one hundred dollars, and the county court, if the claim is over one hundred dollars; and any person, claiming damages in such case, may bring suit therefor, in the usual form, and at any time within six years from such entry; and a plea or notice of justification of the entry, under or by virtue of the act incorporating such company, shall not bar the suit, but the plaintiff, in any such case, shall recover only his actual damages.

SEC. 27. No person shall hereafter acquire a title to any lands belonging to any railroad corporation in this state by reason of any adverse possession thereof for more than fifteen years: Provided, that this act shall not refer to any lands of any railroad corporation except where such lands lie within the limits of the roadway of such corporation as recorded in the town clerk's office of the towns wherein such lands lie.

#### LOCATION OF ROAD AND CHANGES THEREOF.

SEC. 28. Every railroad corporation shall cause the location of their road, in each town through which it passes, to be recorded in the respective town clerk's offices of said towns, within



two years from passing the act of incorporation, which location shall be signed by a majority of the directors thereof, and shall define the courses, distances, and boundaries of the same.

SEC. 29. Any railroad corporation, after having taken land, for any portion of their road, may, if they shall find it expedient, vary the direction of the road in the place where such land is situated, provided, they shall not thereby locate their road, or any part thereof, without the limits prescribed by their act of incorporation; and they shall, before the time required by law for completing their road, file the location of the different parts of the road, when such variations are made, with the town clerks of the respective towns, where said parts of the road are situated, who shall record the same.

SEC. 30. Whenever any railroad corporation shall have paid, or become liable to pay, land damages for the location of their road, and shall afterwards change such location and occupy other lands of the same land owner to whom damages shall have been paid or awarded, such land first located upon shall, on the completion of such subsequent location, revert absolutely to such land owner, and on such subsequent location, the commissioners shall award no other or greater damages than under all the circumstances shall be just and equitable; and if the damages awarded on such second location shall be less than the damages awarded on the first location, the corporation may recover the difference, if paid, from such land owner, and if awarded and not paid, may retain the difference, and shall not be liable to pay the same: Provided, that in case the damages on the first location shall have been assessed by the commissioners and an appeal taken therefrom and be pending, such corporation shall pay the costs that may have accrued in such appeal, and cause their new location to be recorded, before they shall be allowed to take any benefit of this section.

SEC. 31. If the location of any railroad shall be changed, after the payment of damages to any land owner, and no portion of the lands of such owner shall be taken for the new location, then the lands so taken for said first location shall revert absolutely to the owner, as provided in the preceding section; and such railroad corporation shall have the right to recover from such land owner the amount so paid as damages, deducting therefrom the damages which shall have actually accrued to such

owner in consequence of locating said railroad across said lands, which damages shall be ascertained by the commissioners in the manner provided in this chapter for determining land damages upon the location of any railroad: Provided, however, such land owner may, if he chooses, convey to such company the land so located upon, and in that case may retain the sum so awarded.

SEC. 32. If the location of any such road shall have been changed, as mentioned in the preceding section of this chapter, and the damages shall have been awarded and not paid, the land first located upon shall revert to the owner thereof, and the corporation shall not be required to pay the sum so awarded, but shall pay to such owner all damages which have accrued to him by reason of such location, to be determined by said commissioners.

CROSSING OF TURNPIKE OR OTHER HIGHWAY; AND THE DUTIES  
AND LIABILITIES OF RAILROAD CORPORATIONS, ETC.

SEC. 33. If, after the laying out and making any railroad, already granted, or which may hereafter be granted, any turnpike road or other way shall be so laid out so as to cross said railroad, the said turnpike road or way may be so made as to pass under or over said railroad, and said turnpike or way shall in all cases be so made as not to obstruct or injure such railroad.

SEC. 34. Whenever it shall become necessary for any railroad corporation to lay out their road upon, or by the side of any turnpike, highway or way, or upon any bridge owned by a town or turnpike corporation, said corporation shall give notice thereof to one of the directors of such turnpike, or to one of the selectmen of such town; and if such railroad corporation cannot agree with the selectmen of the town, or with the turnpike directors; on some road to be worked or bridge to be built by the railroad corporation, in lieu of such road or bridge, or on the amount of damages, the commissioners, appointed to appraise land damages for such railroad corporation, shall direct said corporation to build such road or bridge, as a substitute for the road or bridge so located upon, as the interest of the public and the parties shall require; and upon the construction of such road or bridge, the road or bridge so located upon shall vest in said corporation: Provided, that any railroad corporation, turnpike corporation, town, or individual, owning land adjacent to said

road or bridge, so entered upon, crossed or altered, shall have the same right of appeal from the decision of the selectmen or commissioners, as is provided for in the eighteenth section of this chapter.

SEC. 35. Any railroad may be so laid out as to cross any turnpike or other way; and the corporation may raise or lower such turnpike or way, for the purpose of having their railroad pass over or under the same. If any railroad corporation, which has been or may be established, shall think proper to alter the course of any turnpike or other way, where it is crossed by their railroad, for the purpose of facilitating the crossing of the same they may alter the same accordingly. Before proceeding to make any alteration in such turnpike or way, said railroad corporation shall, in writing, notify one of the directors of the corporation owning such turnpike, or one of the selectmen of the town in which such way is situated; and if such corporation cannot agree with said selectmen, or turnpike directors as to such alterations, or manner of crossing, the commissioners named in the preceding section of this chapter shall determine the same.

SEC. 36. Such corporation may take such additional lands, for the purposes mentioned in the two last preceding sections of this chapter, as said commissioners shall judge necessary. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be determined by said commissioners, as in other cases, and duly made by said railroad corporation, to the owners and persons interested in such lands; the same, when so taken, on compensation made, to become part of such turnpike or way, in such manner and by such tenure as the adjacent parts of the same turnpike or way may be held for highway purposes: Provided, said land owners and said corporation shall have the same right of appeal as in other cases of land damages.

SEC. 37. All alterations made in any turnpike or way, under the three preceding sections of this chapter, shall, if made by said commissioners, be signed by them, and if agreed upon by the parties shall be signed by the turnpike directors or selectmen of the town, and duly recorded in the town clerk's office.

SEC. 38. In all cases where any railroad company has constructed, or shall hereafter construct, its road across any highway or street, and shall find it necessary to erect a bridge or

embankment for the accommodation of such highway or street, unless such company shall complete such crossing to the acceptance of the selectmen or railroad commissioners agreeably to its charter, said railroad company and its assigns shall keep and maintain such bridge or embankment in good and sufficient repair for all the purposes of a public highway, and shall be liable in an action on the case to the town in which such crossing is situated, for all injuries either to persons or property in consequence of the insufficiency of such bridge or embankment, and also for all costs and expenses incurred by such town in connection with any action or claim against such town, on account of any such injury to person or property: and the abandonment of or cessation to use such railroad, at such crossing, by any railroad company or its assigns, shall not release such company, or its assigns, from such liability, unless the selectmen of such town, shall, in writing, consent that the said company be released therefrom, and shall cause such written consent to be recorded in the records of deeds in the town clerk's office in such town, or unless such railroad company, or its assignees, shall restore such crossing to its original state of usefulness and permanency.

SEC. 39. If such railroad company or its assigns shall neglect to make all necessary repairs to such bridge, on request of a majority of the selectmen of the town in which such bridge is situated, the selectmen of such town may, from the funds of such town, make all necessary repairs to such bridge, and such railroad company and its assigns shall be liable to such town for the amount expended in making such repairs, and in case of non-payment, such town may recover the same of such railroad company or its assigns with costs, in an action on the case, in any court of competent jurisdiction.

SEC. 40. When any railroad corporation in this state shall have constructed a railroad across any public highway, either by passing upon, over, or under the travelled path of such highway, such corporation shall at all times keep in good and sufficient repair, and rebuild when necessary, all bridges, culverts, crossings and other constructions which have been, or shall hereafter be made, for the accommodation, safety, and convenience of the public travel on such highway, over, under, or upon such railroad. And any railroad corporation, which has or shall hereafter so construct a railroad across any highway as aforesaid, shall

be liable to the town within whose limits such crossings shall be, for any damage or injury that shall accrue by reason of their not complying with the terms and provisions of this section, to be recovered in an action brought therefor.

SEC. 41. Any person or persons, having the possession of, control, or management of any such railroad, or of the engines and cars running thereon, either as lessees, assignees, or trustees, or in any other capacity, shall perform the same duties and be subject to the same liabilities to be enforced in the same manner, as is provided in the last three preceding sections of this chapter in the case of the railroad corporation.

SEC. 42. If the selectmen, or persons acting in a like capacity, in any town or city in this state in which any such crossing may be, shall at any time be of the opinion that such bridge, culvert, crossing, or other constructions require repairing or rebuilding in order to be safe for travel thereon, they may notify the person or persons whose duty it is made by this chapter to repair or build the same thereof, by leaving a written notice to that effect with either the person acting as president, or the superintendent of such road, or the clerk of said corporation. And if such person, or persons shall neglect to repair or rebuild the same for the period of one month after the notice aforesaid, the same town or city may repair or rebuild the same, and recover the expense thereof of such person or persons, in an action of general assumpsit for work and labor done, together with costs of suit.

SEC. 43. Nothing in the provisions of the last five preceding sections of this chapter shall be so construed as to interfere with any express contract which has been or may hereafter be made between any railroad corporation, or other persons herein referred to, and any town or city, relative to the keeping in repair or rebuilding of any such bridge, culvert, crossing or other construction.

#### TO PREVENT OBSTRUCTIONS OF HIGHWAYS, AND AT RAIL ROAD CROSSINGS.

SEC. 44. If any railroad corporation, or its assignees, or trustees, or its or their servants or agents, shall wilfully or negligently obstruct any highway or public street in this state, by their engines, tenders or cars, such corporation, assignees, trus-

tees, servants, or agents, shall be liable to a fine of not less than five dollars, nor more than twenty dollars, for each offence.

SEC. 45. If any person shall leave or deposite any wood, lumber or other material, on the line of any railroad or highway in this state, at, or near the crossing of any highway, in such manner as to prevent or obstruct a sight of the cars when approaching said highway crossing, the person so offending shall be subject to a fine of not less than five nor more than fifty dollars.

SEC. 46. If any person shall neglect or refuse to remove said obstruction, after notice has been given to such person by one or more of the selectmen of the town in which said crossing is situated, the person so offending shall be subject to the same penalty as is provided in the preceding section of this chapter, for every twenty-four hours such obstruction is suffered to remain thereafter, which fine shall be for the benefit of the town in which such offence is committed.

#### FENCES, FARM CROSSINGS AND CATTLE GUARDS.

SEC. 47. Each railroad corporation shall erect and maintain fences on the sides of their road, (so far as the same shall be necessary,) of the height and strength of a division fence as required by law, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad, and also construct and maintain cattle guards at all farm and road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines, to cattle, horses or other animals thereon, if occasioned by want of such fences or cattle guards, after such fences and guards shall be duly made, the corporation shall not be liable for any such damages, unless negligently or wilfully done; and if any person shall ride, lead, or drive any horse or other animal, upon such road, and within such fences and guards, other than at road and farm crossings, without the consent of the corporation, he shall, for every such offence, forfeit a sum not exceeding ten dollars, to be recovered by such corporation in an action on the case, and shall also pay all damages which shall be sustained thereby to the party aggrieved.

SEC. 48. The provision of the preceding section of this chapter, requiring such corporations to erect and maintain fences, shall not apply to any case when the corporation shall have settled with and paid the land owner for building and maintaining such fence. And if any person, having been thus settled with and paid for keeping any such fence in repair, shall neglect so to do, such railroad corporation may make such repairs and recover the necessary expense thereof of such person or his grantee.

SEC. 49. If the parties cannot agree upon the plan, or manner, or number of the farm crossings, the same shall be determined by the commissioners: Provided, that the commissioners shall not be required to order farm crossings to be made when the costs of construction shall exceed the value of the land to be accommodated thereby; but in such cases the commissioners shall award such damages, in lieu thereof, as shall be just and equitable.

SEC. 50. It shall be the duty of every railroad company, hereafter chartered in this state, to construct a good and sufficient fence on each side of their road, when the same shall be completed and in running order, and thereafter to maintain such fence.

SEC. 51. If any railroad company shall neglect to construct said fence, as prescribed by the foregoing section, any person aggrieved may construct said fence; and the selectmen of the town in which the same is located shall appraise the value thereof, and said railroad company shall pay the amount so awarded by the selectmen to the person or persons so aggrieved.

SEC. 52. Any railroad corporation already chartered in this state, which shall neglect for thirty days, after being requested in writing, addressed to the president or either of the directors of said road, and duly mailed and signed by the person or persons in interest, to construct a good and sufficient fence on each side of their road, shall be subject to the provisions of the preceding section of this chapter: Provided, however, that no company shall be required to build their fence under the provisions of this and the two preceding sections of this chapter, while the ground is frozen.

SEC. 53. Any person, through whose lands any railroad passes, may, after said road is put in operation, make complaint

in writing, to the commissioners provided for in this chapter, that he is aggrieved by the neglect or default of any railroad company, in erecting, constructing, or maintaining fences, cattle guards, or farm crossings, which said company is bound to construct or maintain; or that he is aggrieved by their stopping, impeding or altering any water-course, or by their making or stopping any ditch. The complaint shall require the corporation to appear before the commissioners at a time and place therein appointed, to show cause why the commissioners should not make an order in the premises, and shall be served upon the corporation in due form of law. Upon the hearing, the commissioners may make an order in writing, thereby requiring the corporation to erect, construct or maintain in good repair such fence, cattle-guard or farm crossing, within such time as they may require, or to make or alter any such water-course or ditch, or to remove any such impediment to the same, within such time as they may require. The corporation failing to comply with such order shall forfeit and pay to the party aggrieved the sum of twenty dollars with costs of prosecution, to be recovered in an action on the case, and shall be further liable to the party aggrieved for all damages he may sustain in consequence of non-compliance with such order: Provided, such corporation shall not be required by such order to open any ditch while the ground is frozen, nor to alter the natural course of any water-course, nor to do any act in regard to any water-course which they are not legally bound to do, nor be required to comply with such order till ten days after being served with a copy thereof.

#### REGULATIONS RESPECTING THE RUNNING OF THE ROAD.

SEC. 54. Every railroad corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each public road or street, where the same is crossed by the railroad on the same level; said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of the boards shall be painted in capital letters, of at least the size of twelve inches each, the words—"LOOK OUT FOR THE ENGINE."

SEC. 55. A bell of at least thirty pounds weight, shall be placed on each locomotive engine, and be rung at the distance



of at least eighty rods from the place where the railroad shall cross any road or street, on the same grade, and be kept ringing until it shall have crossed such road or street; the steam whistle may be blown in lieu of ringing said bell.

SEC. 56. If any railroad corporation shall unreasonably neglect or refuse to comply with the requisitions contained in the two preceding sections of this chapter, they shall forfeit, for every such neglect or refusal, a sum not exceeding one thousand dollars.

SEC. 57. In forming a passenger train, no loaded, and not more than two empty baggage, or freight or merchandise, or lumber cars, shall be placed in rear of passenger cars; and if they or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor and engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly: Provided, however, the words "passenger train," as used in this section, shall not be construed to extend to a single passenger car accompanied by the other cars named in this section.

SEC. 58. If any passenger shall refuse to pay his fare or toll or shall be disorderly, or drunk, or refuse to comply with all the reasonable regulations of the corporation for the government of the conduct of the passengers it shall be lawful for the conductor of the train and the servants of the corporation to put him out of the cars at or near any station, or upon any part of said railroad near to or in sight of any dwelling house, causing the train to be stopped for that purpose; and such conductor and servants may employ sufficient force to effect such removal.

SEC. 59. It shall be the duty of all baggage masters and station agents on the railroads of this state to give checks, when requested to do so, to the owners of baggage when delivered to them for transportation from station to station; and said checks shall be returned to the baggage master or station agent when he shall deliver said baggage to the owner or owners thereof; and the railroad corporations, whose officers or servants shall refuse or neglect to comply with the requirements of this section, shall forfeit and pay into the treasury of this state the sum of ten dollars for each and every such neglect or offence, and they shall also be liable for all damages which may accrue in consequence of such neglect.

SEC. 60. Every conductor, baggage master, engineer, brakeman, or other servant of any such railroad corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall demand or be entitled to receive, from any passenger, any fare, toll or ticket, or exercise any of the powers of his office, and no other of the said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property.

SEC. 61. If any person shall, while in charge of a locomotive engine running upon the railroad of any corporation, or while acting as the conductor of a car, or train of cars, on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor, and may be punished by fine not exceeding five hundred dollars, or be imprisoned in the state prison not exceeding one year.

SEC. 62. Whenever any engineer, fireman or other agent of any railroad corporation, shall be guilty of negligence or carelessness, whereby an injury is done to any person or corporation, he shall, upon conviction, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars: Provided, that nothing contained in this section shall exempt such corporation from an action in damages to any person or corporation sustaining such injury.

SEC. 63. If any conductor, engineer, or other person having the control of an engine or train of cars, shall run such engine or train of cars, or allow the same to be run upon a section of any railroad within this state, upon the time designated for any other engine or train of cars to run upon such section, in an opposite direction, without notice from the conductor, engineer, or other person having control of the last mentioned engine or train of cars, authorizing him so to run, such conductor, engineer, or other person, so offending, shall be punished by fine not exceeding one thousand dollars, nor less than one hundred dollars, or imprisonment in the state prison not exceeding five years, in the discretion of the court; and if the death of any person thereby ensue, the person so offending shall be deemed guilty of manslaughter and punished accordingly.

SEC. 64. It shall be the duty of every railroad company

within this state, to have and keep a printed copy of the preceding section hung or posted up on every engine and in every passenger car when in use, and in every passenger and freight depot belonging to such company; and for every ten days neglect to comply with this requisition, shall forfeit and pay to the state the penalty of two hundred dollars for such neglect.

SEC. 65. When any injury to the property or person of another shall be sustained through the default of a railroad corporation or other persons having the control or management of a railroad, their agents or employees, the cars, engine and all other property, which, at the time of such injury, shall be subject to use in the running and management of said road, and which have at any time been owned by said corporation or other person, shall be deemed to be the property of said corporation, or other party or person having the control and management of said road, for the purpose of furnishing indemnity for such injury, and may be attached and levied upon as such at the suit of the party injured.

SEC. 66. If any conductor, engineer or other person, having the control of any detached engine, or any engine with passenger train of cars attached, shall run such engine, or passenger train of cars into or through any passenger depot at a rate of speed exceeding four miles in one hour, such conductor, engineer or other person so offending shall, on conviction thereof, be punished by a fine of ten dollars.

SEC. 67. If any railroad company shall employ, or retain in its service, any conductor, engineer, brakeman, or switchman, who shall make use of intoxicating liquors as a beverage, such fact being known to the president, superintendent, or any one of the directors of such road, such corporation, upon conviction thereof in the county court, shall forfeit and pay into the treasury of the state, a sum not less than three hundred, nor more than three thousand dollars, together with costs of prosecution; and shall also be liable for all damages which any person may sustain by the employment or retention of such conductor, engineer, brakeman, or switchman.

#### TOLLS, ETC.

SEC. 68. Every such corporation may establish, for their sole benefit, a toll upon all passengers and property conveyed or transported on their railroad, at such rates as may be deter-

mined by the directors of the corporation ; and may, from time to time, regulate such conveyance and transportation, the weight of loads, and all other things in relation to the use of such road, as the directors shall determine ; Provided, that the supreme court may, at any stated session holden in any county through which said road passes, on the application of ten freeholders of such county, and due notice thereof to the corporation, from time to time, as they shall deem expedient, alter or reduce such rates of toll, according to the provisions, if any, contained in the charters of such corporations ; but the said toll shall not, without the consent of the corporation, be so reduced as to produce, with all other profits, less than ten per centum per annum.

SEC. 69. Any railroad corporation, whose railroad is located in this state, shall not charge any larger sum for freight, merchandise or passage of passengers thereon for a less distance, to or from any way station on said road, than is charged for a greater distance ; and in case of any violation of the provisions of this chapter by said corporation, the excess, so charged, may be recovered back from said corporation, by the party aggrieved, in an action for money had and received, with full costs of suit.

#### UNITED STATES MAIL.

SEC. 70. Any railroad corporation shall, when applied to by the postmaster general, convey the mail of the United States on their road ; and in case such corporation shall not agree with said postmaster general as to the rate of compensation therefor, and as to the time, rate and speed, manner and condition of carrying the same, the governor of the state may appoint three commissioners, who, or a majority of them, after twenty days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid ; but such price shall not be less, for carrying said mails in the regular passenger trains, than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post office car. And in case the postmaster general shall require the mail to be carried at other hours, or a higher speed, than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra

compensation for the expenses and wear and tear thereof, and for the service, to be fixed as aforesaid.

#### GENERAL PROVISIONS.

SEC. 71. Every railroad corporation shall be a body corporate and politic, from the passing of the act of incorporation, so far as to authorize such corporation, after its organization, to enforce the payment of subscriptions to its capital stock, and the performance of contracts, in relation to the conveyance of real estate for the purposes of the road, made with any person for the benefit of the corporation, although such subscriptions and contracts may have been made prior to such organization.

SEC. 72. Every railroad company in this state shall require sufficient security from the contractors for the payment of all labor performed in constructing the road of such company by persons in their employ; and such company shall be liable to the day laborers employed by the contractors, for labor actually performed on their road, but such liability shall not exist, unless the person having such claim shall, in writing, within forty days after performance of such labor, notify the engineer in charge of the section on which the labor was performed, that he has not been paid by the contractors.

SEC. 73. If any articles of personal property, brought upon any railroad or steamboat in this state, and deposited in any depot or warehouse of any railroad or steamboat corporation, without any special contract for the keeping thereof, shall not be claimed by the owner or consignee within six months from the time they are so deposited, and the legal charges thereon shall remain unpaid, such corporation may cause such property, or any portion thereof, to be sold by the sheriff of the county where the same may be deposited, and in the sale and disposition of the avails of such property, the sheriff and state treasurer shall be governed by the provisions of sections 75, 76 and 77 of this chapter.

SEC. 74. If any trunk, valise, carpet bag, or other article of personal baggage, brought upon any railroad or steamboat in this state, shall remain for a period of six months in any depot or warehouse of any railroad or steamboat corporation in this state, and when the owner or consignee thereof shall have been notified that said property is at such depot or warehouse, and

shall have neglected or refused to take the same away, and pay all legal charges thereon, or when the owner or consignee or his residence is unknown, the operators of said road may cause the said property to be opened and examined by the sheriff of the county in which it so remains, and if upon such examination the name and residence of the owner or consignee shall be ascertained, the said operators shall notify the said owner or consignee, by letter, of the place where said property is; and if he shall neglect for the period of one month thereafter to claim and take away such baggage, or when the owner or consignee shall not be ascertained, or his residence not known, such baggage, and the contents thereof, may be sold by the sheriff in the manner hereinafter provided.

SEC. 75. Such sheriff shall sell such property at public auction, and shall give notice of such sale, by publication in some newspaper printed in the town and county where such property shall so remain unclaimed, three weeks successively, the last of which publications shall be not less than four weeks previous to such sale; and if there be no newspaper printed in such county, such publications shall be made in some newspaper printed in an adjoining county. Such advertisement shall state the time and place of sale, the place where such property was received, a description of said property, the marks upon the articles to be sold, the time when received, the place whence sent, when known, and the names of the owners or consignees when known.

SEC. 76. If the owner or consignee shall not claim said property, and pay all legal charges thereon and for advertising the same, before the day of sale, the sheriff shall proceed to sell said property and shall make a return of said sale, together with a list of the property so sold as aforesaid, and shall transmit a copy of the advertisement describing such property, within twenty days after such sale, to the treasurer of this state, with his affidavit to the truth of such return. Such sheriff shall also return to the treasurer of the state all papers, notes, drafts, moneys or other valuables of similar nature, which shall be found in such baggage, which, together with all moneys arising from said sale, after deducting all legal charges thereon, and the charges and expenses of said sale, shall be kept by said treasurer for the benefit of the owner or consignee of such baggage, and

shall be paid to him on producing satisfactory evidence of his right.

SEC. 77. The state treasurer shall keep a true minute of the time when such moneys, notes, drafts or other valuables, and the avails of such sale, shall be received, and if the same shall remain in his office unclaimed by the owner or consignee thereof for the space of two years after they are so received, such property shall become the property of the state, and shall be disposed of by the state treasurer for the benefit of the state.

SEC. 78. When any injury is done to a building or other property, by fire communicated by a locomotive engine of any railroad corporation, the said corporation shall be responsible in damages for such injury, unless they shall show that they have used all due caution and diligence and employed suitable expedients to prevent such injury.

SEC. 79. Any railroad corporation shall have an insurable interest in such property as is mentioned in the preceding section, along its route, and may procure insurance thereon, in its own name and behalf.

SEC. 80. If any horse or other beast shall be found going at large, within the limits of any railroad, after the same is opened for use, the person through whose fault or negligence such horse or other beast shall be so at large, shall, for every such offence, forfeit a sum not exceeding twenty dollars, for every horse or other beast so found going at large, and shall also be liable for any damages thereby sustained by any person, to be recovered in an action on the case, by the person sustaining such damages.

SEC. 81. If any person shall wilfully do, or cause to be done, any acts whatever, whereby any building, fence, construction, or work of any such corporation, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person so offending shall be guilty of a misdemeanor, and shall also forfeit and pay to the said corporation double the amount of damages sustained by means of such offence.

#### CONNECTION WITH OTHER ROADS.

SEC. 82. All railroad companies incorporated, or which may be incorporated, under the authority of this state, shall have power to make contracts and arrangements with each other, and

with railroad corporations incorporated, or which may be incorporated, under the laws of other of the United States, or under the authority of the government of Canada, for leasing and running the roads of the respective corporations, or any part thereof, by either of their respective companies; and to contract for and hold in fee simple, or otherwise, lands or buildings in this or other states for depot purposes and storing freight; and also to purchase and hold such personal property as shall be necessary and convenient for carrying into effect the object of this section: and such company shall also have the right of connecting with each other upon such terms as shall be mutually agreed upon by the corporations interested in such connection.

SEC. 83. No locomotive engine or other power shall be allowed to run upon any railroad constructed by authority of this state, except such as belong to, and are controlled by, the corporation owning and managing such road, unless by the consent of such corporation.

SEC. 84. Every railroad corporation, which may be the owner of any railroad in use, and all mortgagees, trustees, assignees or other persons controlling or managing any such railroad, are hereby required, at reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandise, and cars of any other railroad corporation, which has been, or may hereafter be, authorized by the legislature to enter with their railroad upon, or to unite the same with, the road of such corporation, and use said last named road. And if the respective corporations, or parties whose roads are so united, shall be unable to agree upon the place of union, or the compensation so as aforesaid to be paid, or the mode and time of the connections of the trains of such corporations or parties, the supreme court, upon the petition of either party, and upon at least thirty days' notice to the other party, shall appoint three commissioners, who shall, upon due notice to the parties interested, proceed to determine and fix upon the place and manner of uniting, such rate of compensation, and the mode and time of such connection. Such petition may be made to such supreme court at any term thereof, in any county, and such court shall, as soon as practicable, appoint such commissioners, whose duty it shall be to come to a determination of the matters submitted to them with the least



possible delay, and report such determination and award to the supreme court at the first term thereof, which may be held in any county after the same shall be agreed upon. And the award of said commissioners, or a major part of them, after it shall have been confirmed by said court, shall be binding upon the respective corporations or parties interested therein, until the same shall have been revised or altered by commissioners appointed as aforesaid, on petition of either party; but no such revision or alteration shall be made by such commissioners within two years after such decision and award shall have been made; and such commissioners shall upon the application of either party, if the respective parties cannot agree upon the same, also determine the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interest of such parties, and of the public who will be accommodated thereby. The supreme court may, at any term thereof, in any county, make all proper orders for the carrying out of the award of such commissioners, and enforce the same by the ordinary process of the court of chancery, and may allow to either party such costs as they shall deem proper.

SEC. 85. The compensation of said commissioners for their services and expenses, shall be paid by the respective parties interested therein, in equal proportions.

SEC. 86. Any railroad company may construct their road across the track of any other such corporation already chartered, if the right so to do is reserved in the act creating such last mentioned corporation, and may also cross any other railroad hereafter granted, at any point on its route, and upon the grounds of such other company. And if the two corporations cannot agree upon the amount of compensation to be paid therefor, or upon the points and manner of such crossings, the same shall be ascertained and determined by commissioners, to be appointed and paid in the manner provided in the two preceding sections.

SEC. 87. The provisions of the preceding sections of this chapter, which impose upon a railroad corporation any duty, obligation or liability, shall extend to and embrace all persons having the possession, control or management of any railroad, or of the engines and cars running thereon, either as lessees, assignees, trustees or in any other capacity.

SHARES OF RESIDENT AND NON-RESIDENT STOCKHOLDERS. TAX-  
ATION ON RAILROAD COMPANY FOR THE LATTER, ETC.

SEC. 88. It shall be the duty of the clerks of the several railroad corporations in this state to certify annually to the clerks of the several towns in this state in which any stockholders of such corporation may reside, a true list of the names of all such stockholders, with the number of shares standing against the names of all such stockholders, on the books of such corporation, on the first day of April in each and every year, together with the amount paid on each share.

SEC. 89. It shall be the duty of the clerks of the several railroad corporations in this state, on the first day of April, annually, to certify to the treasurer of this state, a true list of the names of all the stockholders in such corporation residing without this state, and the number of shares standing against the names of all such stockholders on the books of such corporation, together with the amount actually paid in on each share: Provided, however, that no certificate as herein before required in the preceding section of this chapter, shall be made by such clerks of said corporations, unless such railroad corporation shall earn, yield or receive an annual income, profit or dividend of six per cent. or more, to the several stockholders therein.

SEC. 90. It shall be the duty of the treasurers of the several railroad corporations in this state, on or before the first day of August, annually, to pay as a tax, into the treasury of this state, for the use of the people thereof, one per cent. on each and every share in any and every railroad corporation which shall be owned by any person or persons residing without this state, whenever such railroad corporation shall earn, yield or pay, to the stockholders therein, an annual income, profit or dividend of six per cent. or more, on each and every share of said stock; and said shares of stock shall be held liable to be distrained and disposed of by any collector of taxes in this state on a warrant issued by the treasurer of this state, for that purpose, for the payment of said one per cent. tax, as aforesaid; under such regulations as appertain to the collection of taxes on bank stock or shares of persons residing without this state.

SEC. 91. In case of the distraining and selling of any railroad stock or shares, for the payment of said tax or taxes, in

pursuance of the provisions of this chapter, such sale shall have the legal effect to convey a legal and valid title to the purchaser or purchasers of such stock or shares, so distrained and disposed of.

SEC. 92. It shall be the duty of the president, directors and company of any and every railroad corporation in this state, to cause the several clerks and treasurers of their respective corporations to faithfully discharge the several duties imposed upon them, as aforesaid, in any of the four preceding sections of this chapter; and any failure on the part of such clerks and treasurers to discharge the duties imposed upon their several corporations, as aforesaid, shall be deemed to be a failure on the part of the corporation whose clerk or treasurer is guilty of such neglect; for which failure, said corporations, in their several corporate capacities, and their several directors, shall individually be held responsible to the treasurer of the state.

SEC. 93. The treasurer and clerk of every railroad corporation within this state, shall be residents of this state, and the offices of the treasurers and clerks, and all books and papers pertaining to said offices of treasurer and clerk of said railroad corporations, shall at all times be kept within this state, except that said books and papers may be temporarily moved and detained without the limits of this state by order of a judge of the supreme court of this state, for the purpose of being used in evidence in suits actually pending in a neighboring state, and in such case to be detained only during the term of court at which such suit is to be tried; and if any railroad corporation shall neglect to comply with the provisions of this section, such corporation shall, for every day it shall so neglect, forfeit and pay to the state a fine of ten dollars.

SEC. 94. In case said treasurers or clerks, or any of them, belonging to, or doing business for, said corporations, or any one of them, shall for the space of ten days, after the time specified in sections eighty-eight, eighty-nine and ninety of this chapter, for the discharge of the several duties therein pointed out, neglect or refuse in good faith to discharge said duties so imposed by said sections, then they, the several clerks or treasurers, or any or each of them, who shall be guilty of such neglect for the space of time aforesaid, shall forfeit and pay to the state a fine of five hundred dollars, for the use of this state, for the first offence

so committed, and a further fine of one hundred dollars per day for every day they, or either of them, shall be guilty of such neglect thereafter.

SEC. 95. It shall be the duty of each and every railroad corporation of this state, on the first day of January of every year hereafter, to lodge with the secretary of state the names of its clerk and treasurer, and their place of business within this state.

SEC. 96. All fines and forfeitures provided for in the ninety-third and ninety-fourth sections of this chapter shall be recovered in an action on the case, upon this statute, to be commenced and prosecuted in any county in this state, in the name and behalf of the treasurer of this state, who is hereby authorized to prosecute the same.

#### BONDS, MORTGAGES AND LEASES.

SEC. 97. Every railroad corporation within this state, if it shall vote so to do, at a meeting of the stockholders called for such purpose, shall have power to issue their notes or bonds for the purpose of building or furnishing their roads, or paying any debts contracted for building or furnishing the same, bearing such a rate of interest, not exceeding seven per cent., and secured in such manner as they may deem expedient.

SEC. 98. All bonds or notes which have been, or which hereafter may be issued by any such corporation, for the purposes aforesaid, shall be binding and collectible in law, notwithstanding such notes or bonds were negotiated and sold by such corporation at less than par.

SEC. 99. All notes or bonds which may be issued under, and by virtue of the provisions of this chapter, shall be issued for a sum not less than one hundred dollars, and shall be made payable in not less than three years, nor more than twenty years from the time of issuing the same.

SEC. 100. All mortgages and leases of railroads, and assignments of such mortgages and leases, shall be recorded in the office of the county clerk of each county through which said road passes, within this state, instead of the offices of the town clerks, and the same, when so recorded, and copies of such record, shall have the same effect as if recorded in the several offices

of the town clerks, of the towns through which such road passes.

SEC. 100. All mortgages of railroad franchises, furniture, cars, engines, and rolling stock of any kind, when properly executed and recorded, shall be effectual to vest in the mortgagee a valid mortgage interest in and lien upon all such property, without delivery or change of possession; and for the purpose of mortgage, all such property shall be deemed part of the realty.

SEC. 102. Provided nothing in the preceding section shall prevent such furniture, cars, engines and rolling stock from being attached by any person having a claim against the corporation owning such property, for an injury sustained on the road of said corporation, by reason of any neglect of said corporation, or for services rendered, or materials furnished for the purpose of keeping said road in repair or in running the same, or for any liabilities as common carriers, or for the loss of any property while in the possession of said corporation; and such property, when so attached may be taken, held and disposed of in the same manner as it could have been if that section of this chapter had not been passed.

#### PROCEEDINGS OF TRUSTEES AND BONDHOLDERS AFTER FORECLOSURE.

SEC. 103. It shall be the duty of trustees so long as they shall continue in possession of any railroad under a mortgage to call a meeting of the bondholders or creditors for the security of whose claims they hold such property in trust, at some convenient place on or near the line of such road, in the month of January in each year, by giving notice of such meeting at least twenty days previous thereto, in two or more daily papers, published in each of the cities of Boston and New York, and in at least one paper published in each county through which the said road is located, if any such there be, and at such meeting the said trustees shall submit a report of the whole earnings of, and expenditures upon and for the trust property and estate for the year preceding the 1st of January in each year, and also of their business and proceedings, according to the usual custom of railroad directors, to the stockholders.

SEC. 104. In all cases where a mortgage of any railroad or any part thereof, made by any railroad company in this state, to secure the payment of bonds, shall have been foreclosed, and the legal title to the mortgaged premises vested in the mortgagees, any number of persons holding a majority in amount of the principal of the bonds so secured, may form themselves into a corporation for the purpose of owning or maintaining and operating such railroad, or part thereof, for public use, in the conveyance of persons and property in the manner following: they may make, subscribe and file articles of association, in which shall be set forth a brief statement of the making and foreclosure of the mortgage under which they have become interested in such railroad; the amount of bonds which were owing upon and secured by the mortgage; the name of the corporation to be formed; the amount of its capital stock, which shall not exceed the amount of principal and interest of said bonds, and twenty-five per cent. on the same in addition thereto, and the number of shares, each of which shall be fifty dollars, into which the capital stock shall be divided; the number of directors by whom the corporation shall be managed; the names of the persons who shall be directors for the first year, and until others are chosen in their places, and a majority of the directors of such corporation shall be residents of this state. Each subscriber to such articles shall state in his subscription the number of shares which he takes or agrees to take, and the amount of bonds held by him and secured by such mortgage which he intends to surrender in payment or part payment of his subscription; such subscription may be made by the holder in person, or by his attorney or agent, and any three of the persons named in said articles as directors, may be inspectors of such subscriptions, and the production of any such bond shall be evidence of the right of the person holding the same to subscribe to said articles.

SEC. 105. Such articles of association shall be filed in the office of the secretary of state, and a copy thereof filed and recorded in the offices of the clerks of each of the counties through which the said railroad shall pass; and a notice of the formation of such corporation, and of the filing of the articles, shall be published once a week for three successive weeks in a newspaper published in each of said counties, if any be published therein, and for six successive days in two or more dailies pub-

lished in each of the cities of New York and Boston ; but such articles shall not be so filed until the amount of bonds, to be surrendered by the subscribers thereto for that purpose, shall be at least a majority in amount of the principal of the bonds secured by the mortgage referred to in such articles ; nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that they have in good faith examined the list of such subscribers, and that they believe the said subscribers to be the holders or representatives of the amount of bonds therein stated, and that they believe the said subscribers intend, in good faith, to comply with the terms of their subscription.

SEC. 106. Any holder of a bond or bonds secured by such mortgage, may, within thirty days after the last publication of the notices provided for in the preceding section of this chapter, either in person or by attorney or agent, subscribe the articles of association, or a copy thereof, for any amount of stock equal to the amount of bonds held by him or them, which he or they intend to surrender to the directors of said new company, in payment or in part payment of his or their subscription ; but no subscription shall be made for a fractional part of a share ; and when a holder of bonds would otherwise be entitled to subscribe for a fractional part of a share, he may subscribe for a full share and pay the excess in cash.

SEC. 107. In case any holder or holders of bonds, secured by the mortgage referred to in such articles of association, decline or neglect to subscribe said articles, and to become stockholders in the company formed, the court of chancery may, upon the application of such holder, by a decree, direct the estate, title and interest of such holder or holders to be assigned to said company, and such company shall pay such sum of money, at such times and in such manner, to the other party or parties as the commissioners appointed by the court shall judge just and equitable ; and if said holder or holders shall not be satisfied with such appraisal as aforesaid, the court shall order the commissioners to sell such estate at public or private sale, agreeably to the order of the court, and execute a good and sufficient conveyance to the purchaser thereof as provided in the chapter relating to the partition of real estate.

SEC. 108. Every company formed under the provisions of

this chapter, shall from the time its articles of association are filed as aforesaid, be a corporation vested with all the powers, rights, privileges and franchises for maintaining and operating its railroad, which were vested in and enjoyed by the corporation mortgaging it, and it shall be subject to like duties and liabilities, and shall be subject to the future legislation of this state; and it may at once take possession of and maintain and operate said railroad, subject to all existing rights of other parties, and may proceed in any manner it may deem expedient, either by purchase or otherwise, to obtain the title and ownership, or the use and benefit of the whole estate, and to satisfy the undivided interests or claims of any other party or parties interested in said railroad; and until the interests of such other parties shall become vested in such new corporation, said corporation shall be the trustees thereof, and shall be accountable therefor as tenants in common.

SEC. 109. A copy of any articles of association filed and recorded in pursuance of this chapter, or of the record in the offices of the county clerks, and certified to be a copy by the secretary of state, or his deputy, or by the clerk of either of the counties in which it is directed to be filed, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated; and it shall be the duty of every corporation formed under this chapter to keep safely and have the custody of the records, title-deeds, and archives of the corporation previously owning and mortgaging such railroad; and the clerk of any such new corporation shall be and is hereby created the certifying officer of any matter or document relating to said former corporation.

SEC. 110. If there should be any case of neglect or failure to organize a new corporation under the provisions of this chapter, when a mortgage has been foreclosed, or if the railroad on which the mortgage exists, shall be sold or assigned by virtue of any order, decree or judgment of any court, then and in that event, when the purchaser, purchasers, grantee or grantees, shall acquire title to the same in the manner prescribed by law, such purchaser, purchasers, grantee or grantees, shall have, take and possess all the rights, powers and privileges in this chapter herein before granted to a majority of the bondholders, and be subject to like duties; and may associate with him or them any



number of persons, and make, sign and file articles of association as before prescribed by this chapter, and shall thereupon be a corporation, with all the powers, privileges and franchises, and be subject to all the duties granted to or imposed upon railroad corporations.

SEC. 111. Nothing contained in any of the preceding seven sections of this chapter, shall be construed to impair or affect the rights or claims of any person or party against any railroad corporation in this state, or against the trustees or assignees of any such railroad corporation; but such claims or debts shall remain without prejudice, as they were before the enactment of the aforesaid provisions.

SEC. 112. Whenever a sale shall be made of any railroad and franchises, either with or without other property, under or by virtue of any railroad mortgage or power of sale thereof, for the security of any debt of any railroad company, or when any such sale shall be made under the order of any court, any creditor or any number of creditors of such road, under such mortgage, may within three months next after such sale pay into the court of chancery making such order of sale, or if no order of sale has been made, into the court of chancery in some county through which such road is located, for the use of the purchaser at such sale, a sum bearing the same proportion to the price paid by such purchaser with twelve per cent. interest thereon from the time of such sale, that the debt so held by such creditor under such mortgage bears to the whole amount of debt outstanding under such mortgage; whereupon such creditor so paying shall have a legal and equitable interest in all the property so sold, in common with such purchaser, in the proportions aforesaid; and in all such cases the court of chancery shall have power in a summary manner to adjust the rights of the parties and to grant such specific relief as the nature of the case may require.

PROVISIONS FOR EXPEDITING PROCEEDINGS IN CHANCERY, RELATIVE TO TRUSTEES OF RAILROAD MORTGAGES.

SEC. 113. Whenever the owners or holders of notes, bonds, or obligations secured by a railroad mortgage, to an amount of not less than fifty thousand dollars, and in number five or more, shall deem any trustee of such mortgage to be an unsuit-

able person to administer such trust, they may apply by petition to any chancellor for the removal of such trustee, and shall set forth in a general manner the grounds and reasons for such removal. The court shall thereupon appoint some short day for hearing such petition, and shall give due notice thereof to the trustees of such mortgage and to all other persons interested. The court shall take especial care to give notice of such application, and of the time and place of hearing, to all persons interested who reside out of this state, by publication in one or more daily newspapers published in Boston and New York.

SEC. 114. Upon the hearing, the petitioners and trustees, and all other witnesses may be examined orally before the chancellor; or in his discretion the chancellor may appoint a special master or masters to take the testimony, and report the same to the court. And said witnesses shall be examined as to all alleged breaches of trust, or neglect or omissions of duty; as to the fitness and competency of the trustees; as to their holding any other offices, or having any interests, either of a public or private nature, inconsistent in any way with the true interests of the *cestui que* trust, or interfering in any way with the prompt, fair and impartial discharge of the duties of such trusts; and as to all circumstances or conduct of the trustees which render it improper for the interests of the trust to continue them in office. If, upon the hearing, the chancellor finds that such trustee ought to be removed, he shall decree his removal; shall appoint a new trustee or trustees; and shall make such orders and decrees as to the transfer and conveyance of the trust property from the old to the new trustees, as to the ascertaining the debts and liabilities of the old trustees, and the payment of the same, as to the future management of the trust and the accounting thereon, and generally as to all other matters and things connected with such trust, as the exigencies of the case, the protection of the old trustees, and the security and welfare of the trust fund, shall require.

SEC. 115. If either party shall see fit, he may, within twenty days after said order, appeal to the supreme court; in which case the application and proceedings therein, and the minutes of the chancellor as to the testimony taken before him, or the testimony taken by the special master, shall all pass to the supreme

court. Upon an examination of the papers and the testimony, the supreme court may, upon application and notice thereof, order the taking of further testimony, if they see fit, or may affirm or reverse the order of the chancellor, and may proceed therein as justice and equity shall require.

SEC. 116. When an appeal is taken by the trustees, the chancellor may, if he see fit, require that the appellants execute a bond in such sum as he shall direct, with sufficient sureties, who shall be residents of this state, conditioned for the safe keeping and management of the trust property during the pendency of the appeal.

SEC. 117. If the order of the chancellor shall be to remove the said trustee or trustees, and the said order shall not be appealed from, or, if appealed from, if it shall be confirmed by the supreme court, then the said cause shall be ordered by the supreme court to the court in the county where said petition was originally heard, for final decree; and the chancellor before whom said cause shall come may, if he see fit, order the new trustee or trustees, before entering upon the duties of his office, to file with the clerk of the court, in the county where said petition shall be pending, a bond in such sum as the chancellor shall think proper, with at least to sufficient sureties resident in this state, to be approved by such chancellor on notice and hearing, with such conditions as the chancellor may require to protect the rights and interests of any and all parties who may be affected by such order.

#### PROCESS HOW SERVED ON NON-RESIDENT TRUSTEES OR LESSEES.

SEC. 118. The trustees under any assignment, mortgage, or other transfer, made and executed by any railroad company in this state, and any lessee or lessees of any such railroad company not resident in this state, who shall hold possession of the property of such railroad company, or manage the running of the road of such company, under, and by virtue of such assignment, mortgage, lease, or other transfer, shall in case they reside without this state, appoint one person resident in this state, upon whom service of every kind of process, known to the laws of this state, may at any time be made; and shall, in the month of January in each year, file in the office of the clerk of the county court in every county, through which such road shall

pass, a certificate signed by such trustees, or lessees, designating the name and place of residence of the person thus appointed; and all such service of process upon said person so appointed, shall be a legal service of the same on such trustees, or lessees; and if such trustees or lessees shall neglect to appoint such agent, and file such certificate, the leaving, with any station agent, or depot master, in the employment of such trustees, or lessees, of a copy of any legal process against such trustees, or lessees, by any proper officer, shall be deemed legal service of such process, upon such trustees, or lessees, and shall have the same effect, as though personal service of such process had been made upon such trustees or lessees.

#### RAILROAD COMMISSIONER; HIS DUTIES AND LIABILITIES.

SEC. 119. One competent person who is not a stockholder, officer, trustee, assignee or lessee, under any railroad corporation, shall be annually appointed by the senate and house of representatives in joint assembly, to be styled the railroad commissioner, who shall be sworn to the faithful performance of his duty. He shall hold his office and execute the duties thereof, as hereafter provided in this chapter, until his successor shall be appointed. And in case of a vacancy by death, removal, resignation or otherwise, the governor shall fill the same.

SEC. 120. Said commissioner shall be entitled to the annual salary of five hundred dollars and his expenses while engaged in the duties of his office, which is to be paid by the treasurer of the state; and if such commissioner shall directly or indirectly receive any compensation or pay for any service, or extra service, or for neglect of service, other than is provided in this chapter, from any one but said treasurer, he shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine not exceeding one thousand dollars, and imprisonment in the state prison not exceeding six months, in the discretion of the court.

SEC. 121. The commissioner shall inquire into and report annually any neglect or infringement of the laws for the regulation of railroads in this state by officers, employees or agents of such roads, to the general assembly the first week of its session; and shall also from time to time, carefully examine and inspect the condition of each railroad in this state, and learn its

state of repair and sufficiency, and that of its carriages, engines, furniture and equipage, and the manner of its conduct and management for the public safety, and shall also annually report the same to the general assembly during the first week of its session.

SEC. 122. In case there shall be a failure of any proper railroad connections in this state, in the opinion of the railroad commissioner, he shall inquire into the cause or causes of the same, and shall report wherein such failure consists and the reasons of such failure to the then next session of the general assembly the first week of their session.

SEC. 123. Said commissioner shall examine and report annually to the general assembly, the first week of its session, the existing pecuniary condition and financial management of each and every railroad in this state for the current year, showing the true pecuniary condition of said railroad. Such report shall include the amount of receipts and expenditures of said road for the year, and from what sources said receipts were derived and for what said expenditures were made; also the outstanding debts and liabilities against such road and the nature thereof; all claims and debts due said road and the probable availability thereof; the names and compensation of all persons employed by said road and the nature of their service, together with the condition of said road and its equipments and property, as herein before provided.

SEC. 124. To enable said commissioner to perform said service and to make said report, the directors, assignees, trustees or other officers and persons in the management of each railroad, shall annually make to the said commissioner, under oath, such returns and in such form and at such time as he shall prescribe and make known to them. And each and every person so required, who shall refuse or neglect to make such return, shall be deemed guilty of a misdemeanor, and shall on conviction thereof be subject to fine and imprisonment as herein before provided in the one hundred and twentieth section of this chapter; and said commissioner shall have power for the purpose aforesaid to examine any of the books, papers, or documents of the corporation or its directors, treasurer or officers, and those of the assignees, or trustees, or persons in the direction or control of said road, and also under oath to examine any

of said persons or their employees or other persons. He is empowered to issue subpoenas and administer oaths in the same manner and with the same power to enforce obedience thereto, in performance of his said duties, as belong and pertain to courts of law in this state. And any person refusing access by said commissioner to such papers, or any director, trustee, or assignee, lessee or other officer, clerk or employee of said road who shall obstruct said access or refuse to furnish any information required by said commissioner in discharge of his duty, shall be deemed guilty of a misdemeanor, and shall be liable on conviction to fine and imprisonment as provided in the one hundred and twentieth section of this chapter.

SEC. 125. If any person in making any such returns to said commissioner as herein provided, or in furnishing information or making statement to him on oath, when by him required, shall be guilty of willful falsehood or suppression of truth, he shall be deemed guilty of perjury and punished accordingly.

SEC. 126. Said commissioner shall report annually to the general assembly, the first week of its session, whether any railroad corporation has within the year previous exceeded its legal powers or in any way incurred a forfeiture of its franchises, that proceedings may be taken therefor. And he shall also, at the same time, report what further legal provisions should, in his opinion, be adopted, in relation to railroads, if any.

SEC. 127. Every person, who shall wilfully obstruct, hinder or impede said commissioner in the execution of the duties of his office, shall be subject to conviction and punishment therefor in the same way as is provided by law for the punishment of hindering and impeding officers judicial or executive in the execution of their offices under the authority of this state.

SEC. 128. The said commissioner may cause his respective reports to be printed, at the expense of the state, the claim for which may be audited by the state auditor.

SEC. 129. The amount of the salary and expenses of said commissioner shall be audited and allowed on proper vouchers by the auditor of accounts, and be paid by the treasurer of the state, and said amount shall be equitably apportioned by said treasurer to the several railroad companies according to the time employed by said commissioner, and the amount of expense by him incurred for them, severally, in pursuance of his duties

herein imposed upon him; and said proportional part so determined by said treasurer shall be paid him on demand for the benefit of the state by each of said railroad companies, their directors or the persons in the actual direction and control or use of said roads respectively; and in default of such payment the treasurer may and shall issue his warrant to any sheriff of any county in the state for the collection thereof, who shall collect the same out of the goods and chattels of said railroad company, and any engines, cars, or other articles in use on said road by the persons managing, using or conducting said road, and which have at any time been owned by said corporation or persons, shall be deemed and taken to be the property of said company for this purpose and be subject to be taken and sold by virtue of said warrant by said sheriff in the same manner as personal property in taken and sold on execution.

#### RIGHTS OF THE STATE, ETC.

SEC. 130. The state may, at any time during the continuance of the charter of any railroad corporation, after the expiration of twenty years from the opening of said railroad for use, purchase of the corporation the said railroad, and all the franchise, property, rights and privileges of the corporation, by paying them therefor such a sum as will reimburse them the amount of capital paid in, with a net profit thereon of ten per cent. per annum from the time of the payment thereof by the stockholders to the time of such purchase, and the provisions of this chapter shall be at all times, subject to alteration, amendment, or repeal, by any future legislature, and nothing therein contained shall affect any rights or liabilities which had accrued previous to December 1, 1850.

# COMPILED STATUTES.

## CHAPTER 83.

### PRIVATE CORPORATIONS.

#### SECTION

1. The term "private corporation" defined.
2. Notice upon opening books for subscription to capital stock of.
3. Capital stock to be deemed personal property.
4. Shares may be attached, &c., and sold on execution—copy to be left with clerk.
5. Corporation to have a clerk in this State, penalty for neglect.
6. Clerk to have custody of by-laws and records, and to show the same.
7. If clerk neglect to show records, &c., penalty.

#### SECTION

8. Record of proceedings to be kept, with the number and owner of each share.
9. Capital stock subject to attachment and may be sold on execution, against the corporation.
10. Proprietor neglecting to pay assessment on stock, shares may be sold, &c.
11. The terms "clerk and treasurer," defined.
12. If corporate property be attached by a director and another creditor, attachment of the director postponed.

SEC. 1. The term "private corporation," as used in this chapter, shall be construed to mean any corporation created for the purpose of making a turnpike road, railroad or canal, for carrying on any branch of manufacture, for mining, for improving the navigation of any stream or other waters, for building wharves or store houses, for building or using steamboats or other vessels, for the purposes of banking or insurance, and all other corporations, which, from their object, suppose a division of profits among the stockholders. (*Sec. 1 of R. S.*)

SEC. 2. Whenever any commissioners are appointed by any act of incorporation, to open books to receive subscriptions to the capital stock in such corporation, such commissioners shall give notice by publishing in some newspaper printed in the county in which such corporation is located, a notice of the time and place where such books will be opened, at least thirty days before the time of opening such books ; provided, if no newspa-



per is published in such county, then such notice shall be published in some adjoining county, where a paper is published. (*No. 2 of 1840*)

SEC. 3. The capital stock of all private corporations shall be deemed personal estate, for all purposes, and the stock in any such corporation may be transferred in the manner provided by its by-laws. (*Sec. 2 of R. S.*)

SEC. 4. When any share of such capital stock shall be attached, a copy of the attachment shall be left with the clerk of the corporation, and such stock may be taken and sold on execution in the same manner as other personal property, the purchaser causing an attested copy of the execution and officer's return thereon to be left with the clerk of such corporation within twelve days after such sale, and the title of the stock, so sold, shall vest in the purchaser. (*Sec. 3 of R. S.*)

SEC. 5. If any private corporation shall refuse or neglect, for the term of six months, to appoint and have a clerk residing in this state, such corporation shall, for such refusal or neglect, forfeit and pay the sum of fifty dollars, for every such offence, to the person injured, to be recovered in an action on the case. (*Sec. 4 of R. S.*)

SEC. 6. The clerk of any such corporation shall at all times have the custody of all the by-laws and records of such corporation, and shall, at all proper and reasonable times, exhibit and show the same to the owner of any share of the stock of such corporation, his agent or attorney, or to any creditor of such owner, his agent or attorney, on demand, and give certified copies of such by-laws and records, when required, and a reasonable compensation therefor tendered to such clerk. (*Sec. 5 of R. S.*)

SEC. 7. If any such clerk shall wilfully neglect or refuse to exhibit and show any such by-laws and records in his possession, he shall forfeit and pay to the person injured the sum of ten dollars for every twenty-four hours such clerk shall so neglect or refuse, to be recovered in an action on the case. (*Sec. 6 of R. S.*)

SEC. 8. Every private corporation shall, by its clerk, make and keep a record of all its corporate doings, in which the several shares of the capital stock of such corporation shall be designated by numbers, and also a record of the name of each owner

of such stock, and the number and description of the shares of such owner. (*Sec. 7 of R. S.*)

SEC. 9. The capital stock of any private corporation, whether owned by such corporation or individuals, shall be liable to and held by attachments, and may be taken and sold on executions against such corporation. (*Sec. 8 of R. S.*)

SEC. 10. When any proprietor in any private corporation shall neglect or refuse to pay any tax or assessment, duly laid or assessed by such corporation agreeably to the by-laws thereof, the treasurer may sell, by public auction, the shares of such delinquent, under such regulations as the corporation, by its by-laws, may direct; and the purchaser, on producing a certificate of such sale from the treasurer to the clerk of such corporation, with the number of such share so sold, and causing the same to be recorded by the clerk, shall thereupon be the proprietor thereof, and the excess, if any, after paying such tax or assessment and all proper charges, shall be paid by the treasurer to such delinquent, on demand. (*Sec. 9 of R. S.*)

SEC. 11. The term "clerk of a corporation," as used in this chapter, shall be construed to mean the recording officer, whether he be styled clerk, secretary, cashier, or however designated, and the term "treasurer," as used in this chapter, shall be construed to mean the officer who has the care and custody of the funds of such corporation, by whatever name he may be designated. (*Sec. 16 of R. S.*)

SEC. 18. When the property of any private corporation shall be attached on a writ in favor of a person who is a director of such corporation, and the same property shall be afterwards attached at the suit of another creditor of the same corporation who is not a director, and before the time when by law the first attachment should be returned, the attachment so made by such director shall be postponed, and such subsequent attachment shall hold the property against the attachment of such director. (*Sec. 21 of R. S.*)

## CHAPTER 26.

## RAILROADS.

## SECTION

1. All railroad companies subject to provisions of this act.

## THEIR INCORPORATION, ORGANIZATION, AND GOVERNMENT

2. Notice of application to legislature to be published.
3. Location of route to be designated.
4. Government of the corporation.
5. 8. Subscription to the capital stock.
7. 8. Election of directors.
9. Meetings and votes of members.

## SHARES AND ASSESSMENTS THEREON.

10. Shares. Their transfer, &c.
11. Assessments on shares.
12. Shares not to be issued for less than their par value.

## BONDS.

13. Notes or bonds may be issued.
14. May be negotiated at less than par.
15. Amount and time of payment regulated.

## RIGHT TO TAKE LAND, AND PROCEEDINGS THEREON.

16. Width of road. Right of obtaining stone, gravel, &c.
17. May take land for depot accommodations.
18. May take lands, materials and water. Mode of appraisal.
19. Limitations under which said land may be taken.
20. Commissioners for appraisal of land damages; their appointment, proceedings, &c.
21. Parties need not attempt to agree.
22. Appeal from decision of commissioners, and proceedings thereon.
23. Plan of land to be furnished.
24. Damages to right of dower or life estate, to be separately appraised.
25. Proceedings where land owners are unknown, or conflicting titles exist.
26. Same subject.
27. Deposit of damages.
28. Entry upon lands for preliminary survey.
29. Notice upon appraisal of unoccupied lands.
30. Right of action given in certain cases after two years.

## LOCATION OF ROAD AND CHANGES THEREON.

31. Location of road to be recorded within two years.
32. Changes may be made; to be recorded.
33. Damages in such case.
34. 35. Same subject.

## CROSSING OF TURNPIKE OR OTHER WAY.

36. Turnpike or other way may pass over or under railroad.

## SECTION

37. Laying of railroad upon turnpike, highway or bridge.
38. Crossing of turnpike or other way.
39. Additional lands may be taken; how appraised, &c.
40. Alterations in turnpikes or other ways to be recorded.

## FENCES

41. Fences, farm crossings and cattle guards, to be erected by corporation. Liable for damages until built. Penalty for driving animals within fences.
42. Proviso, in case land owner agrees to build and maintain fences.
43. Commissioners to determine respecting farm crossings.
44. Railroad companies to fence each side of their road.
45. In case of neglect, person aggrieved may build at their expense.
46. Notice to be given.
47. Fence need not be built while ground is frozen.

## REGULATIONS RESPECTING THE RUNNING OF THE ROAD.

48. Sign to be kept at road crossings.
49. Ringing of bell, &c.
50. Penalty for non-compliance with above requisitions.
51. Formation of passenger train.
52. Conductor may leave certain persons.
53. Conductors and others to wear badge of their office.
54. If intoxicated, to be deemed guilty of a misdemeanor.
55. Punishment for negligence in engineer, &c.

## TOLL, ETC.

56. Corporation may establish a toll. Supreme Court may alter or reduce it.
57. To charge no more for a less than for a greater distance.

## UNITED STATES MAIL.

58. Regulations for carrying the United States mail.

## GENERAL PROVISIONS.

59. Railroad corporations a body corporate from their incorporation.
60. To require security and be responsible for wages of laborers.
61. Unclaimed property; how disposed of.
62. Liability for fires communicated from locomotives.
63. To have an insurable interest.
64. Penalty for permitting horse or other beast to be at large within the limits of railroad.
65. Penalty for willful injuries to railroad property.

CONNECTION WITH OTHER ROADS.	
SECTION	SECTION
66. Railroad companies may make contracts, connections, &c., with each other.	71. Track of one may cross that of another corporation in certain cases.
67. Locomotives not to run on other road without license, &c.	REPORT OF DIRECTORS, RIGHTS OF THE STATE, ETC.
68. Railroad corporation to draw cars, &c., of another corporation. Commissioners may determine terms, &c.	72. Directors to report annually.
69. Commissioners may determine the time of running, &c.	73. After twenty years, State may purchase railroad franchise, &c.
70. Compensation of commissioners, how paid.	74. This act subject to repeal.
	75. Not to affect rights or liabilities accrued.

SEC. 1. All railroad companies that have been or that shall hereafter be incorporated, under the authority of this State, shall have all the powers and privileges, and be subject to all the duties, liabilities, and other provisions contained in this act respecting such corporations, so far as the same are consistent with their respective charters.

#### THEIR CORPORATION, ORGANIZATION, AND GOVERNMENT.

SEC. 2. No petition or bill for the establishment of any railroad corporation, or for extending the grant or charter for any such corporation, shall be acted upon, unless notice thereof shall have been published in a newspaper, or two newspapers, if so many there shall be, printed in each of the counties in which such railroad, or the extension thereof, shall be located or proposed to be located, which notices shall be published three weeks successively in each of said papers, and the last publication shall be at least three weeks previous to the session of the general assembly to which said petition or bill shall be presented; and if no newspaper be printed in such county, then the publication shall be made as aforesaid in some newspaper printed in an adjoining county.

SEC. 3. Every act of incorporation for a railroad company, shall confine the road within the limits indicated by the notice required in the preceding section; shall specify the several towns through which the same may pass, and shall otherwise designate the route on which the road may be authorized to be made, with as much certainty as the nature of the case will admit.

SEC. 4. The immediate government and direction of the affairs of every such corporation shall be vested in a board of not less than five directors, who shall be chosen by the members of the corporation in the manner hereinafter provided, and shall hold their offices until others shall be duly elected in their places;

and the said directors shall elect one of their own number to be president of the board, who shall also be president of the corporation; and they may also choose a clerk, who shall reside and keep his office in this State, and who shall be sworn to the faithful discharge of his duty, and a treasurer, and also such subordinate officers as the company by its by-laws may designate, who shall give bonds to the corporation, in such sum as shall be required by the by-laws for the faithful discharge of the duties of their office. A majority of the directors shall form a board, and shall be competent to transact the business of the company.

SEC. 5. The commissioners for opening books of subscription named in any act of incorporation, shall, from time to time, after the company shall be incorporated, open books of subscription to the capital stock of the company, in such places, and after giving such notice as a majority of them shall direct, which books of subscription shall be kept open until all the capital stock shall be subscribed, if the corporation shall so long exist, and in case a greater amount of stock shall be subscribed than the whole capital stock of such company, the commissioners shall distribute such capital stock as equally as possible among the subscribers, but no share thereof shall be divided in making such distribution, nor shall a greater number of shares be allotted to any subscriber than such subscriber shall have subscribed for.

SEC. 6. Every person at the time of subscribing for stock in any railroad company, shall, at the time of subscribing, pay to the commissioners, five dollars on each share for which he may subscribe, and shall if required by the commissioners, give security to their satisfaction for the payment of fifteen dollars more on each share, in such instalments as may be ordered by such company, and each subscriber shall be a member of such company. All subscriptions for stock shall be payable absolutely, and no secret agreement, nor any understanding or condition not inserted in the terms of the subscription, shall affect the right of the corporation to enforce payment thereof as hereinafter provided.

SEC. 7. As soon as practicable after said stock, or such portion thereof as may be prescribed in the act of incorporation, shall have been subscribed, the commissioners to receive subscriptions shall give at least ten days' notice for the meeting of the

stockholders at such time and place as said commissioners shall appoint, for the choice of directors, by publishing the same in such newspapers as they shall direct; and such elections shall then be made by ballot by the stockholders, who shall attend for that purpose, either in person or by proxy. Said commissioners shall be inspectors of the first election of directors, shall openly count the votes and declare the result, and shall certify the names of those duly elected, and shall also deliver to said directors all moneys received by such commissioners on subscriptions to such capital stock, and all books and papers in their possession relating to such subscriptions. The time and place for the first meeting of said directors shall be fixed by said commissioners. A new election of directors shall be made annually, at such time place, and upon such notice, as shall be designated in the by-laws of the corporation, but if the by-laws contain no provisions upon the subject, then at such time and place, and upon such notice, as the directors shall designate.

SEC. 8. In case it shall happen at any time that an election of directors shall not be made on the day designated in the by-laws of any railroad company, when it ought to have been made, the company for that reason shall not be dissolved, if within ninety days thereafter they shall hold an election for said directors in such manner as shall be provided for by the said by-laws.

SEC. 9. At all meetings of the corporation, each member shall be entitled to one vote for each share held by him; provided that he shall not be entitled to any vote for any shares beyond one-tenth part of the whole number of shares of the stock of such corporation; and all meetings shall be called and notified in such manner as shall be provided in the by-laws of such corporation.

#### SHARES AND ASSESSMENTS THEREON.

SEC. 10. The shares in the capital stock of any railroad corporation shall be deemed personal estate, and may be transferred by any conveyance in writing, in the manner provided by the by-laws of such corporation, and shall be liable to attachment and sale under legal process, in the manner provided by chapter seventy-nine of the revised statutes, (chap. 83 of this compilation.)

SEC. 11. The president and directors of every railroad corporation, may, from time to time, make such equal assessments on

all the shares in said corporation as they may deem expedient and necessary for the purposes of the corporation, and may direct the same to be paid to the treasurer, who shall give notice thereof to the stockholders, either personally or by letter through the mail, or by publication in such newspaper as the directors shall designate; and if any stockholder shall neglect to pay his assessments for the space of thirty days after notice from the treasurer, the directors may order the treasurer, after giving notice of the sale, to sell such shares at public auction to the highest bidder, and the same shall accordingly be transferred to the purchaser; and if the shares of any delinquent stockholder shall not sell for a sum sufficient to pay his assessment, with interest and charges of sale, he shall be held liable to the corporation for any deficiency; and if such shares shall sell for more than the assessment so due, with interest and charges of sale, he shall be entitled to the surplus remaining after such sale; provided that no assessment shall be laid upon any shares in such corporation, to a greater amount than the sum at which the shares shall be fixed by the charter of such corporation, or by any vote or agreement of the stockholders. The purchasers and owners of the shares so purchased shall be liable for all subsequent assessments thereon, and payment thereof, may be enforced in the manner above provided.

SEC. 12. No railroad corporation, which is authorized by its charter to increase its capital stock, shall hereafter issue shares for a less amount or sum, to be actually paid in on each, than the par value of the shares in the original stock of said corporation, unless all the stockholders in such corporation shall, in writing, agree that such shares may be issued for a less sum.

#### BONDS.

SEC. 13. Every railroad corporation within this state shall have power to issue their notes and bonds for the purpose of building or furnishing their roads, or paying any debts contracted for building or furnishing the same, bearing such a rate of interest, not exceeding seven per cent., and secured in such manner as they may deem expedient.

SEC. 14. All bonds or notes which have been or which hereafter may be issued by any such corporation, for the purposes aforesaid, shall be binding and collectable in law, notwithstanding

ing such notes or bonds were negotiated and sold by such corporation at less than par.

SEC. 15. All notes or bonds which may be issued under and by virtue of the provisions of this act, shall be issued for a sum not less than one hundred dollars, and shall be made payable in not less than three years nor more than twenty years from the time of issuing the same.

#### RIGHT TO TAKE LAND AND PROCEEDINGS THEREON.

SEC. 16. Every railroad corporation may lay out its road, not exceeding five rods wide; and for the purpose of cuttings, embankments, and procuring stone and gravel, may take as much more land, within the limits of its charter, in the manner provided in this chapter, as may be necessary for the proper construction and security of the road.

SEC. 17. Railroad companies incorporated, or which may be incorporated, \* \* \* (see note) \* may enter upon and take lands, so far as may be necessary, for depot accommodations; subject to all the provisions and conditions of their several acts of incorporation. (*Sec. 2 of No. 22 of 1847.\**)

SEC. 18. Every railroad corporation may purchase or otherwise take any lands or materials necessary for the purpose of making or securing their railroad; and may also take, by purchase or otherwise, such water, and in such quantity as may be required for the uses of the road, together with the right of laying down all necessary aqueducts for the conveyance of water, and of entering upon the land, and constructing and keeping in repair all such aqueducts; and if they shall not be able to obtain such land or materials, such water and the right of conveying the same, by an agreement (*see sec. 21*) with the owner thereof, they shall pay therefor such damages as shall be estimated and determined by the commissioners mentioned in section fifteen of this act, (*sec. 20 of this chap.*) (*Sec. 13 of No. 41 of 1849.*)

SEC. 19. No land, or materials, without the limits of said road, shall be so taken, without the permission of the owner thereof, unless the commissioners on the application of such corporation,

\* The remaining provisions of this act (No. 22 of 1847,) seem to be re-enacted in sec. 34 of 1849 sec. 63 of this chap.) and though not expressly repealed are considered as superseded by the provisions of the later act and are therefore omitted in this compilation.



and after notice to the owner, shall first prescribe the limits within which land or materials shall be so taken as aforesaid. (*Sec. 14 of No. 41 of 1849.*)

SEC. 20. Whenever any railroad corporation shall not have acquired, by gift or purchase, any land, real estate, or property taken or required for the construction and maintenance of their road, and the convenient accommodation of the same, and in case of a disagreement (*see sec. 21*) about the price of such lands and other property, any two of the judges of the supreme court upon application for that purpose, by such company, shall appoint three disinterested commissioners to determine the damages which the owner or owners of such lands or property may have sustained, or shall be likely to sustain, by the occupation of the same for the purposes aforesaid; and upon the payment of the damages determined upon by such commissioners, with the costs and charges thereupon accruing, by said company, or upon the deposit of the same by such company in such bank, or with such clerk of the supreme court, as said commissioners shall direct, to the credit of the person or persons to whom such damages have been awarded, such bank or clerk giving notice personally or by letter through the post office, to such person that such deposit has been made, such company shall be deemed to be seized and possessed of all such lands or other property as shall have been appraised by said commissioners. One of said commissioners shall be an inhabitant of the town in which the land or other property to be appraised is situated, and all of said commissioners shall be inhabitants of the county in which such property is situated, and said commissioners shall give twelve days' notice to the occupants or owners of the lands to be appraised, of the time and place when and where they will attend to such appraisal; and when such appraisal is made, they shall, within twenty days, notify the owner, if known, of the amount thereof, and deliver to said company a written statement of the same, with a description of the land or other property so by them appraised, which, within thirty days thereafter, said company shall cause to be recorded in the town clerk's office of the town where such lands or other estate lie; and in case the owner of such lands or estate shall be a married woman, an infant, idiot, or insane, or shall not reside in this state, or shall not be known, then said company shall cause the damages sustained by such owners to be

determined in the manner above prescribed, and shall pay the same to the lawful owners, when demanded, with the interest thereon, which said damages and interest shall be a specific lien upon the real estate of such company, and be preferred before any other demand against said company. (*Sec. 15 of No. 41 of 1849.*)

SEC. 21. \* \* \* \* \* (*see note*) \* \* \* \* \*  
and neither the land-owner, nor the Railroad Corporation shall be required to attempt to agree on the amount of damages, unless they think fit. (*Sec. 9 of No. 22 of 1846.\**)

SEC. 22. Should the Company, or the owner of any land or property, feel aggrieved by the decision of the commissioners, either party may, within ninety days after the date of such award, appeal to the county court in the county where the land or other property lies; and such court shall thereupon appoint three commissioners, one of whom shall be an inhabitant of the county in which such land or property is situated; and the decision of such court shall be final upon the report of said commissioners, and costs may, in the discretion of such court, be taxed and allowed to either party.

Provided, that no appeal shall be taken by the corporation after deposit of the amount of the award, nor shall an appeal be taken by the landholder or owner after acceptance of the amount of the award. (*Sec. 16 of No. 41 of 1849.*)

SEC. 23. At least ten days before any appraisal shall be made by the commissioners, of any lands or other property taken by any railroad corporation, for the purposes of the road, such corporation shall deliver to the owner, or deposit in the town clerk's office in the town in which the same is situate, a plan or description in writing of the land or property so taken. (*Sec. 17 of No. 41 of 1849.*)

SEC. 24. Whenever, for the purposes aforesaid, any such corporation shall require lands subject to dower, to an estate for life, or years, the commissioners shall appraise the damages to such right of dower, or other estate for life, or for years, and also the damages to the revisionary interest. (*Sec. 3 of No. 22 of 1846.\**)

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\* The remaining provisions of this act (No. 22 of 1846) seem to be substantially re-enacted in sections 18, 19, 20, 21, 22 and 27 of the act of 1849 (§ 25, 26, 27, 29, 33 and 37 of this chap.) and though not expressly repealed are considered as superseded by the provisions of the later act and are therefore omitted in this compilation.

SEC. 25. Whenever any railroad corporation, which has been or may be chartered, shall require, either for roadway or building materials, any lands, the owner or owners of which are unknown, or where there are conflicting claims to the title, or where such lands are encumbered by mortgages, attachments, or the levy of executions, or otherwise, such corporation, after having the damages appraised by the commissioners, may, if they think fit, apply by petition to the chancellor of the district in which such lands are situated, and such chancellor may, in his discretion, order the damages awarded by the commissioners to be deposited with the clerk of the court, or in some bank in the county where such land is situated, subject to the order of such person or persons as said chancellor shall decide to be legally and equitably entitled to the same, or subject to the future order of the chancellor of said district. (*Sec. 18 of No. 41 of 1849.*)

SEC. 26. No final decree shall be made in such case, until reasonable notice shall have been given to all persons interested, where they are known, and resident in this state, of the filing of such petition; and when the owners are unknown, or reside without this state, such notice shall be given as the chancellor shall order, by publication or otherwise. (*Sec. 19 of No. 41 of 1849.*)

SEC. 27. On the deposit of the damages awarded under the order of the chancellor, the title to such lands shall vest in such corporation, subject to the right of appeal as in other cases, and if the sum so deposited shall remain for six months undemanded, the chancellor may order the same invested for the benefit of those interested. (*Sec. 20 of No. 41 of 1849.*)

SEC. 28. Every such corporation may cause such examinations and surveys for the proposed railroad to be made, as may be necessary to the selection of the most advantageous route for the railroad; and for such purpose, by their officers, agents and servants, may enter upon lands or waters of any person, but subject to responsibility for all damages which they shall do thereto; but for no other purpose, without the consent of the owner, shall they be permitted to make such entry, until the damages have been agreed upon by the parties, or ascertained and paid to the owner, or deposited as hereinbefore directed. (*Sec. 25 of No. 41 of 1849.*)

SEC. 29. No notice shall be required to be given of the appraisal of unoccupied lands, unless the owner or owners shall reside in this state, or has some known agent or attorney residing therein; and if there be, the same notice shall be given to such agent or attorney as is directed to be given to the occupant or owner, in section 15 of this act, (§ 20 of this chap.) (Sec. 21 of No. 41 of 1849.)

SEC. 30. In every case where a railroad company have entered upon, taken possession of, and used land and real estate for the construction and accommodation of their railroad; and in every case where a railroad company have, by their engineers, agents or servants, with teams, carriages and tools, or otherwise, entered upon land contiguous to their railroad, or the works connected therewith, and dug, blasted, and carried away, and used any stone, gravel or earth, or taken any other materials to use in the construction of their road, and shall not have paid the owner therefor, nor within two years from such entry, had the damages appraised by commissioners, and an award made and duly delivered, the ordinary courts of law shall have jurisdiction thereof, to wit: Justices of the Peace, if the claim does not exceed one hundred dollars, and the county court, if the claim is over one hundred dollars; and any person claiming damages in such case, may bring suit therefor, in the usual form, at any time within six years from such entry; and a plea or notice of justification of the entry, under or by virtue of the act incorporating such company, shall not bar the suit, but the plaintiff, in any such case, shall recover only his actual damages.\* (No. 13 of 1849.)

#### LOCATION OF ROAD AND CHANGES THEREOF.

SEC. 31. Every railroad corporation shall cause the location of their road, in each town through which it passes, to be recorded in the respective town clerk's offices of said towns, within two years from passing the act of incorporation, which location shall be signed by a majority of the directors thereof, and shall define the courses, distances and boundaries of the same. (Sec. 33 of No. 41 of 1849.)

SEC. 32. Any railroad corporation, after having taken land,

\* This act (No. 13 of 1849) was approved Nov. 10th. Quere, how far its provisions are effected by those of No. 41 of 1849, approved Nov. 13th, which without expressly repealing, seems to contain provisions inconsistent with No. 13.

for any portion of their road, may, if they shall find it expedient, vary the direction of the road in the place where such land is situated; provided they shall not thereby locate their road, or any part thereof, without the limits prescribed by their act of incorporation; and they shall, before the time required by law for completing their road, file the location of the different parts of the road, when such variations are made, with the town clerks of the respective towns, where said parts of the road are situated, who shall record the same. (*Sec. 31 of No. 41 of 1849.*)

SEC. 33. Whenever a railroad corporation shall have paid, or become liable to pay, land damages for the location of their road, and shall afterwards change such location and occupy other lands of the same land owner to whom damages shall have been paid or awarded, such land first located upon shall, on the completion of such second location, revert absolutely to such land owner, and on such subsequent location, the commissioners shall award no other or greater damages than under all the circumstances, shall be just and equitable; and if the damages awarded on such second location shall be less than the damages awarded on the first location, the corporation may recover the difference, if paid, from such land owner, and if awarded and not paid, may retain the difference, and shall not be liable to pay the same: provided, that in case the damages on the first location shall have been assessed by the Commissioners and an appeal taken therefrom and be pending, such corporation shall pay the costs that may have accrued in such appeal, and cause their new location to be recorded, before they shall be allowed to take any benefit of this section. (*Sec. 22 of No. 41 of 1849.*)

SEC. 34. If the location of any railroad shall be changed, after the payment of damages to any land owner, and no portion of the lands of such owner shall be taken for the new location, then the lands so taken for said first location, shall revert absolutely to the owner, as provided in the preceeding section: and such railroad corporation shall have the right to recover from such land owner the amount so paid as damages, deducting therefrom the damages which shall have actually accrued to such owner in consequence of locating said railroad across said lands, which damages shall be ascertained by the commissioners in the manner provided in this act for determining land damages upon

the location of any railroad : provided, however, such land owner may, if he chooses, convey to such company the land so located upon, and in that case may retain the sum so awarded. *Sec. 23 of No. 41 of 1849.*)

SEC. 35. If the location of any such road shall have been changed, as mentioned in the preceding section, and the damages shall have been awarded and not paid, the land first located upon shall revert to the owner thereof, and the Corporation shall not be required to pay the sum so awarded, but shall pay to such owner all damages which may have accrued to him by reason of such location, to be determined by said commissioners. *Sec. 24 of No. 41 of 1849.*)

#### CROSSING OF TURNPIKE OR OTHER WAY.

SEC. 36. If, after the laying out and making of any railroad, already granted, or which may hereafter be granted, any turnpike road or other way, shall be so laid out as to cross said railroad, the said turnpike road or way may be so made as to pass under or over said railroad, and said turnpike or way shall in all cases be so made as not to obstruct or injure such railroad. *Sec. 26 of No. 41 of 1849.*)

SEC. 37. Whenever it shall become necessary for any railroad corporation to lay out their road upon, or by the side of any turnpike, highway or way, or upon any bridge owned by a town or turnpike corporation, said corporation shall give notice thereof to one of the directors of such turnpike, or to one of the selectmen of such town; and if such railroad corporation cannot agree with the selectmen of the town, or with the turnpike directors, on some road to be worked, or bridge to be built by the railroad corporation, in lieu of such road or bridge, or on the amount of damages, the commissioners, appointed to appraise land damages for such railroad corporation, shall direct said corporation to build such road or bridge, as a substitute for the road or bridge so located upon, as the interest of the public and the parties shall require; and upon the construction of such road or bridge, the road or bridge so located upon shall vest in said corporation.

Provided, that any railroad corporation, turnpike corporation, town, or individual, owning land adjacent to said road or bridge,

so entered upon, crossed or altered, shall have the same right of appeal from the decision of the selectmen or commissioners, as is provided for in the fifteenth section of this act, (§ 20 of this chap.) (*Sec. 27 of No. 41 of 1849.*)

SEC. 38. Any railroad may be so laid out as to cross any turnpike or other way; and the corporation may raise or lower such turnpike or way, for the purpose of having their railroad pass over or under the same. If any railroad corporation, which has been or may be established, shall think proper to alter the course of any turnpike or other way, where it is crossed by their railroad, for the purpose of facilitating the crossing of the same, they may alter the same accordingly. Before proceeding to make any alteration in such turnpike or way, said railroad corporation shall, in writing, notify one of the directors of the corporation owning such turnpike, or one of the selectmen of the town in which such way is situated; and if such corporation cannot agree with said selectmen, or turnpike directors, as to such alterations, or manner of crossing, the commissioners named in the preceding section shall determine the same. (*Sec. 28 of No. 41 of 1849.*)

SEC. 39. Such corporation may take such additional lands, for the purposes mentioned in the two last preceding sections, as said commissioners shall judge necessary. Unless the lands so taken shall be purchased or voluntarily given up for the purposes aforesaid, compensation therefor shall be determined by said commissioners, as in other cases, and duly made by said railroad corporation, to the owners and persons interested in such lands; the same, when so taken, on compensation made, to become part of such turnpike or way, in such manner and by such tenure as the adjacent parts of the same turnpike or way may be held for highway purposes. Provided, said land owners and said corporation shall have the same right of appeal as in other cases of land damages. (*Sec. 29 of No. 41 of 1849.*)

SEC. 40. All alteration made in any turnpike or way, under the three preceding sections, shall, if made by said commissioners, be signed by them, and if agreed upon by the parties shall be signed by the turnpike directors or selectmen of the town, and duly recorded in the town clerk's office. (*Sec. 30 of No. 41 of 1849.*)

## FENCES.

SEC. 41. Each railroad corporation shall erect and maintain fences on the sides of their roads, (so far as the same shall be necessary,) of the height and strengt of a division fence as required by law, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad, and also construct and maintain catile guards at all farm and road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines to cattle, horses, or other animals thereon, if occasioned by want of such fences and cattle guards, and after such fences and guards shall be duly made, the corporation shall not be liable for any such damages, unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal, upon such road, and within such fences and guards, other than at road and farm crossings, without the consent of the corporation, he shall for every such offence forfeit a sum not exceeding ten dollars, to be recovered by such corporation in an action on the case, and shall also pay all damages which shall be sustained thereby to the party aggrieved. (*Sec. 44 of No. 41 of 1849.*)

SEC. 42. The provision in the preceding section, requiring such corporations to erect and maintain fences, shall not apply to any case when the corporation shall have settled with and paid the land owner for building and maintaining such fence. And if any person, having been thus settled with and paid for keeping any such fence in repair, shall neglect so to do, such railroad corporation may make such repairs and recover the necessary expense thereof of such person or his grantee. (*Sec. 45 of No. 41 of 1849.*)

SEC. 43. If the parties cannot agree upon the plan, or manner, or number of farm crossings, mentioned in section forty-four of this act, (§ 41 of this chap.) the same shall be determined by the commissioners: provided that the commissioners shall not be required to order farm crossings to be made when the costs of construction shall exceed the value of the land to be accommodated thereby; but in such cases the commissioners shall award such damages, in lieu thereof, as shall be just and equitable. (*Sec. 46 of No. 41 of 1849.*)



SEC. 44. It shall be the duty of any railroad company, hereafter chartered in this state, to construct a good and sufficient fence on each side of their road, when the same shall be completed and in running order. (*Sec. 1 of No. 51 of 1850.*)

SEC. 45. If any railroad company shall neglect to construct said fence, as prescribed by the foregoing section, any person aggrieved may construct said fence; and the selectmen of the town in which the same is located shall appraise the value thereof, and said railroad company shall pay the amount so awarded by the selectmen to the person or persons so aggrieved. (*Sec. 2 of No. 51 of 1850.*)

SEC. 46. Any railroad corporation now chartered in this state, which shall neglect for thirty days, after being requested in writing, addressed to the president or either of the directors of said road, and duly mailed and signed by the person or persons in interest, to construct a good and sufficient fence on each side of their road, shall be subject to the provisions of the second section of this act, (§ 45 of this chap.) (*Sec. 3, of No. 51 of 1850.*)

SEC. 47. This act (§ 44, 45, 46, and 47) shall take effect on the first day of April next: provided, that no company shall be compelled to build their fence, under the provisions of this act, while the ground is frozen. (*Sec. 4 of No. 51 of 1850.*)

#### REGULATIONS RESPECTING THE RUNNING OF THE ROAD.

SEC. 48. Every railroad corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained, across each public road or street, where the same is crossed by the railroad on the same level; said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travellers; and on each side of said boards shall be painted in capital letters, of at least the size of twelve inches each, the words—"Look out for the Engine." (*Sec. 39 of No. 41 of 1849.*)

SEC. 49. A bell, of at least thirty pounds weight, shall be placed on each locomotive engine, and be rung at the distance of at least eighty rods from the place where the railroad shall cross any road or street on the same grade, and be kept ringing until it shall have crossed such road or street; the steam whistle may

be blown in lieu of ringing said bell. (*Sec. 38 of No. 41 of 1849.*)

SEC. 50. If any railroad corporation shall unreasonably neglect or refuse to comply with the requisitions contained in the two preceding sections, they shall forfeit for every such neglect or refusal, a sum not exceeding one thousand dollars. (*Sec. 40 of No. 41 of 1849.*)

SEC. 51. In forming a passenger train, no loaded, and not more than two empty baggage, or freight, or merchandise or lumber cars, shall be placed in rear of passenger cars; and if they or any of them shall be so placed, and any accident shall happen to life or limb, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor and engineer of the train, shall each and all be held guilty of intentionally causing the injury, and be punished accordingly. (*Sec. 59 of No. 41 of 1849.*)

SEC. 52. If any passenger shall refuse to pay his fare or toll, or shall be disorderly, or drunk, or refuse to comply with all the reasonable regulations of the corporation for the government of the conduct of the passengers, it shall be lawful for the conductor of the train and the servants of the corporation to put him out of the cars, at any usual stopping place the conductor may elect. (*Sec. 57 of No. 41 of 1849.*)

SEC. 53. Every conductor, baggage master, engineer, brakeman, or other servant of any such railroad corporation, employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge shall demand or be entitled to receive from any passenger, any fare, toll or ticket, or exercise any of the powers of his office, and no other of the said officers or servants, without such badge, shall have any authority to meddle or interfere with any passenger, his baggage or property. *Sec. 58 of No. 41 of 1849.*

SEC. 54. If any person shall, while in charge of a locomotive engine running upon the railroad of any corporation, or while acting as the conductor of a car or train of cars, on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor. (*Sec. 54 of No. 41 of 1849.*)

SEC. 55. Whenever any engineer, fireman, or other agent of

any railroad corporation, shall be guilty of negligence or carelessness, whereby an injury is done to any person or corporation, he shall, upon conviction, be punished by imprisonment in the county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars: provided, that nothing contained in this section shall exempt such corporation from an action in damages to any person or corporation sustaining such injury. (*Sec. 60 of No. 41 of 1849.*)

#### TOLLS, ETC.

SEC. 56. Every such corporation may establish, for their sole benefit, a toll upon all passengers and property conveyed or transported on their railroad, at such rates as may be determined by the directors of the corporation; and may, from time to time, regulate such conveyance and transportation, the weight of loads, and all other things in relation to the use of such road, as the directors shall determine: provided, that the supreme court may, at any stated session holden in any county through which said road passes, on the application of ten freeholders of such county and due notice thereof to the corporation, from time to time, as they shall deem expedient, alter or reduce such rates of toll, according to the provisions, if any, contained in the charters of such corporations; but the said tolls shall not, without the consent of the corporation, be so reduced as to produce, with said profits, less than ten per centum per annum. (*Sec. 42 of No. 41 of 1849.*)

SEC. 57. Any railroad corporation, whose railroad is located in this state, shall not charge any larger sum for freight, merchandise or passage of passengers thereon for a less distance to or from any way station on said road, than is charged for a greater distance; and in case of any violation of the provisions of this act by said corporation, the excess, so charged, may be recovered back from said corporation, by the party aggrieved, in an action for money had and received with full costs of suit. (*No. 50 of 1850.*)

#### U. S. MAIL.

SEC. 58. Any railroad corporation shall, when applied to by the postmaster general, convey the mail of the United States on their road; and in case such corporation shall not agree with

said postmaster general as to the rate of [transportation] (*compensation*) therefor, and as to the time, rate and speed, manner and condition of carrying the same, the governor of the state may appoint three commissioners, who, or a majority of them, after twenty days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains, than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains and a fair compensation for the post office car. And in case the postmaster general shall require the mails to be carried at other hours, or at higher speed, than the passenger trains be run at, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the services, to be fixed as aforesaid. (*Sec. 55 of No. 41 of 1849.*)

#### GENERAL PROVISIONS.

SEC. 59. Every railroad corporation shall be a body corporate and politic, from the passing of the act of incorporation, so far as to authorize such corporation, after its organization, to enforce the payment of subscriptions to its capital stock, and the performance of contracts in relation to the conveyance of real estate for the purposes of the road made with any person for the benefit of the corporation, although such subscriptions and contracts may have been made prior to such organization. (*Sec. 63 of No. 41 of 1849.*)

SEC. 60. Every railroad company in this state shall require sufficient security from the contractors for the payment of all labor performed in constructing the road of such company by persons in their employ; and such company shall be liable to the day laborers employed by the contractors, for labor actually performed on their road, but such liability shall not exist, unless the person having such claim shall, in writing, within forty days after the performance of such labor, notify the engineer in charge of the section on which the labor was performed, that he has not been paid by the contractors. (*Sec. 53 of No. 41 of 1849.*)

SEC. 61. If any articles of personal property, brought upon any railroad in this state, and deposited in any depot or ware-

house of any railroad corporation, without any special contract for the keeping thereof, shall not be claimed by the owner or consignee, within sixty days from the time they are so deposited, and the legal charges thereon for freight remaining unpaid, such corporation may cause such property or any portion thereof, to be sold by the sheriff of the county where the same may be deposited. And in the sale and disposition of the avails of such property, the sheriff shall be governed by the provisions of the act of 1843, entitled "an act to provide for the disposal of unclaimed property stored with wharfingers, and other storehouse-keepers," approved October 31st, 1843, (§ 37, 38 and 39 of chap. 92 of this compilation.) (*Sec. 56 of No. 41 of 1849*)

SEC. 62. When any injury is done to a building or other property by fire communicated by a locomotive engine of any railroad corporation, the said corporation shall be responsible in damages for such injury, unless they shall show that they have used all due caution and diligence, and employed suitable expedients to prevent such injury. (*Sec. 61 of No. 41 of 1849.*)

SEC. 63. Any railroad corporation shall have an insurable interest in such property as is mentioned in the preceding section, along its route, and may procure insurance thereon, in its own name and behalf. (*Sec. 63 of No. 41 of 1849.*)

SEC. 64. If any horse or other beast shall be found going at large, within the limits of any railroad, after the same is opened for use, the person through whose fault or negligence, such horse or other beast shall be so found, shall, for every such offence, forfeit a sum not exceeding twenty dollars, for every horse or other beast so found going at large, and shall also be liable for any damages thereby sustained by any person, to be recovered in an action on the case, by the person sustaining such damages. (*Sec. 47 of No. 41 of 1849.*)

SEC. 65. If any person shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, fence, construction, or work of any such corporation, or any engine, machine, or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person so offending shall be guilty of a misdemeanor, and shall also forfeit and pay to the said corporation double the amount of damages sustained by means of such offence. (*Sec. 37 of No. 41 of 1849.*)

## CONNECTION WITH OTHER ROADS.

SEC. 66. All railroad companies incorporated, or which may be incorporated, under the authority of this state, shall have power to make contracts and arrangements with each other, and with railroad corporations of other states, for leasing or running their roads, or any part thereof; and also, to contract for, and hold, in fee simple, or otherwise, lands or buildings, in this or other states, for depot purposes, and storing freights; and also to purchase and hold such personal property as shall be necessary and convenient for carrying into effect the object of this section. Said companies shall also have the right of connecting with each other, and with the railroads of other states, on such terms as shall be mutually agreed upon by the corporations interested in such connection. (*Sec. 34 of No. 41 of 1849.*)

SEC. 67. No locomotive engine or other power shall be allowed to run upon any railroad constructed by authority of this state, except such as belongs to, and are controlled by, the corporation owning and managing such road, unless by the consent of such corporation. (*Sec. 48 of No. 41 of 1849.*)

SEC. 68. Every railroad corporation, which may be the owner of any railroad in use, is hereby required, at reasonable times, and for a reasonable compensation, to draw over their road the passengers, merchandise, and cars of any other railroad corporation, which has been, or may hereafter be, authorized by the legislature to enter with their railroad upon, or to unite the same with, the road of such corporation, and use said last named road. And if the respective corporations, whose roads are so united, shall be unable to agree upon the place of union, or the compensation so as aforesaid to be paid, the supreme court, upon the petition of either party, and upon notice to the other party, shall appoint three commissioners, who shall, upon due notice to the parties interested, proceed to determine and fix upon a place and manner of uniting, and such rate of compensation. And the award of said commissioners, or a major part of them, shall be binding upon the respective corporations interested therein, until the same shall have been revised or altered by commissioners appointed as aforesaid; but no such revision or alteration shall be made by such commissioners within one year after such

decision and award shall have been made. (*Sec. 49 of No. 41 of 1849.*)

SEC. 69. The said commissioners shall, upon the application of either party, if the respective corporations cannot agree upon the same, also determine the stated periods at which said cars are to be drawn as aforesaid, having reference to the convenience and interest of said corporations, and of the public who will be accommodated thereby. (*Sec. 50 of No. 41 of 1849.*)

SEC. 70. The compensation of said commissioners, for their services and expenses, shall be paid by the respective corporations interested therein, in equal proportions. (*Sec. 51 of No. 41 of 1849.*)

SEC. 71. Any railroad company may construct their road across the track of any other such corporation already chartered, if the right so to do is reserved in the act creating such last mentioned corporation, and may also cross any other railroad hereafter granted, at any point on its route, and upon the grounds of such other company. And if the two corporations cannot agree upon the amount of compensation to be paid therefor, or the points and manner of such crossings, the same shall be ascertained and determined by commissioners, to be appointed and paid in the manner provided in the three preceding sections. (*Sec. 52 of No. 41 of 1849.*)

#### REPORT OF DIRECTORS—RIGHTS OF THE STATE, ETC., ETC.

SEC. 72. The directors of every such corporation shall, from year to year, make report to the legislature, under the oath of the president or one of the board, of their acts and doings, receipts and expenditures, under the provisions of their charter, the first of which reports shall be made within one year after the organization of the corporation, and the others shall be made on or before the third Thursday of October, in every succeeding year; and their books shall at all times be open to the inspection of any committee of the legislature appointed for that purpose; and if such corporation shall unreasonably refuse or neglect to make such reports, they shall, for every such refusal or neglect, forfeit a sum not exceeding five thousand dollars. (*Sec. 41 of No. 41 of 1849.*)

SEC. 73. The state may, at any time during the continuance of the charter of any railroad corporation, after the expiration of twenty years from the opening of said railroad for use, purchase of the corporation the said railroad, and all the franchise, property, rights and privileges of the corporation, by paying them therefor such a sum as will reimburse them the amount of capital paid in, with a net profit thereon of ten per cent. per annum from the time of the payment thereof by the stockholders to the time of such purchase. (*Sec. 43 of No. 41 of 1849.*)

SEC. 74. This act shall be, at all times, subject to alteration, amendment, or repeal, by any future legislature, and shall not take effect till the first day of December, A. D. 1850. (*Sec. 65 of No. 41 of 1849.*)

SEC. 75. Nothing in this act contained shall be so construed as to affect any rights or liabilities which have already accrued. (*Sec. 66 of No. 41 of 1849.*)



# PUBLIC ACTS.

No 49 of 1851.

## AN ACT IN AMENDMENT OF, AND IN ADDITION TO, CHAPTER TWENTY-SIX OF THE COMPILED STATUTES.

### SECTION

1. Penalty for engineer or conductor of any engine or train of cars on railroad running out of regular time.
2. Railroad company required to post up section one of this act on engines, cars and at depots.
3. Railroad company knowingly employing engineer, &c., who uses intoxicating drinks as a beverage, liable to a penalty, and for all damages ensuing.
4. Provisions for appeal to commissioners in case of default by railroad company in regard to fences, cattle guards, farm crossings, water courses, or ditches.

### SECTION

5. No railroad company to have the power to take any water or spring of water which the owner may need for the use of his own premises. Question to be submitted to commissioners in case of disagreement.
6. No land to be taken without the limits of railroad, unless by consent of owner, or unless by decision of commissioners.
7. Railroad company liable to pay damages for obstructions to certain buildings; damages to be appraised by commissioners.

*It is hereby enacted by the General Assembly of the State of Vermont as follows :*

SEC. 1. If any conductor, engineer, or other person having the control of an engine or train of cars, shall run such engine or train of cars or allow the same to be run upon a section of any railroad within this state, upon the time designated for any other engine or train of cars to run upon such section, in an opposite direction, without notice from the conductor, engineer or other person having control of the last mentioned engine or train of cars, authorizing him so to run, such conductor, engineer, or other person so offending, shall, in case no injury ensue therefrom, be punished by fine not exceeding one thousand dollars, nor less than one hundred dollars, or imprisonment in the state prison not exceeding five years, in the discretion of the court; and if the death of any person thereby ensue, the person so offending shall be deemed guilty of manslaughter, and punished accordingly.

SEC. 2. It shall be the duty of every railroad company within

this state, to have a printed copy of the foregoing section hung or posted up on every engine and in every passenger car, when in use, and in every passenger and freight depot belonging to such company.

SEC. 3. If any railroad company shall employ or retain in its service, any conductor, engineer, brakeman, or switchman, who shall make use of intoxicating liquors as a beverage, such fact being known to the president, superintendent, or any one of the directors of such road, such corporation, upon conviction thereof in the county court, shall forfeit and pay into the treasury of the state a sum not less than three hundred nor more than three thousand dollars, together with costs of prosecution; and shall also be liable for all damages which any person may sustain by the employment or retention of such conductor, engineer, brakeman or switchman.

SEC. 4. Any person, through whose lands any railroad passes, may, after said road is put in operation, make complaint in writing, to the commissioners provided for in the act to which this is in addition, that he is aggrieved by the neglect or default of any railroad company, in erecting, constructing or maintaining fences, cattle guards, or farm crossings, which said company is bound to construct or maintain; or that he is aggrieved by their stopping impeding or altering any watering course, or by their making or stopping any ditch. The complaint shall require the corporation to appear before the commissioners at a time and place therein appointed, to show cause why the commissioners should not make an order in the premises, and shall be served upon the corporation in due form of law. Upon the hearing, the commissioners may make an order in writing, thereby requiring the corporation to erect, construct, or maintain in good repair such fence, cattle guard, or farm crossing, within such time as they may require, or to make or alter any such watercourse or ditch, or to remove such impediment to the same within such time as they may require. The corporation failing to comply with such order shall forfeit and pay to the party aggrieved the sum of twenty dollars with costs of prosecution, to be recovered in an action on the case, and shall be further liable to the party aggrieved for all damages he may sustain in consequence of non-compliance with such order: *Provided*, such corporation shall not be required by such order to open any ditch while the ground is fro-

zen, nor to alter the natural course of any watercourse, nor to do any act in regard to any watercourse which they are not legally bound to do, nor be required to comply with such order till ten days after being served with a copy thereof.

SEC. 5. No railroad corporation shall have the power to take, otherwise than by purchase, any water or spring of water which the owner thereof shall require for the reasonable and convenient use of his own premises : and where such owner and the corporation cannot agree as to what water is necessary for the reasonable and convenient use of such owner's premises, the corporation shall first apply to commissioners to determine the same before taking such water, and give such owner twelve days' notice in writing of the time and place when such application will be heard.

SEC. 6. No land without the limits of their road shall be taken by any railroad corporation for the requisite and convenient accommodation of their road, without the permission of the owner thereof, unless the commissioners, on the application of the corporation, and after twelve days' notice to the owner, shall first prescribe the limits within which such land shall be taken.

SEC. 7. Whenever any railroad corporation shall, in the laying out, building, grading, or making of their road, cause any obstruction to the travel or means of access to any manufactory, mill, place of business, or dwelling house, or shall continue such obstruction, such corporation shall be liable to pay to the person thereby injured, such reasonable compensation as the commissioners for determining railroad damages shall deem proper. The person so claiming to be aggrieved shall make application in writing to the commissioners, setting forth such grievance, and such application, with a notice from the commissioners to the corporation of the time and place of hearing, shall be served on the corporation in due form of law.

Approved November 19, 1851.

No. 57 OF 1851.

## AN ACT RELATING TO RAILROAD CORPORATIONS.

## SECTION

1. Mortgages and leases of railroads to be recorded in county clerk's offices instead of town clerks' offices.

## SECTION

2. This act to take effect November 19, 1851.

*It is hereby enacted by the General Assembly of the State of Vermont as follows :*

SEC. 1. All mortgages and leases of railroads, and assignments of such mortgages and leases, shall be recorded in the office of the county clerk of each county through which said road passes, within this state, instead of the offices of the town clerks and the same and copies thereof, shall have the same effect as if recorded in the several offices of the town clerks, of the towns through which such road passes.

SEC. 2. This act shall take effect from its passage.

Approved November 19, 1851.

No. 58 of 1851.

## AN ACT IN RELATION TO RAILROADS.

## SECTION

1. Railroad corporations may issue preferred stock.

## SECTION

2. No such stock to be issued by directors, unless voted by the stockholders.

*It is hereby enacted by the General Assembly of the State of Vermont as follows :*

SEC. 1. Every railroad corporation within this state, for the purpose of building or furnishing their respective roads, or the payment of their just debts, may issue stock, guaranteeing thereon a certain dividend not exceeding eight per cent. per annum, for such term of time as they may deem expedient ; and such contract or guarantee shall be binding on the corporation.

SEC. 2. No such stock shall be issued by the directors of any railroad corporation until the stockholders of such company, at a legal meeting to be called for that purpose, shall have voted to issue the same.

Approved November 19, 1851.

No. 28 of 1852.

AN ACT IN AMENDMENT OF CHAPTER TWENTY-SIX OF THE COMPILED STATUTES, RELATING TO RAILROADS.

## SECTION

1. In case railroad companies shall not complete all crossings of highways to the acceptance of selectmen or commissioners, such companies to be liable for all injuries arising from the insufficiency of such crossings.

## SECTION

2. In case railroad companies neglect to repair bridges across highways, the town may repair the same and recover the expense of such company.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. In all cases where any railroad company has constructed, or shall hereafter construct, its road across any highway or street, and shall find it necessary to erect a bridge or embankment for the accommodation of such highway or street, unless such company shall complete such crossing to the acceptance of the selectmen or railroad commissioners agreeable to its charter, said railroad company and its assigns shall keep and maintain such bridge or embankment in good and sufficient repair for all the purposes of a public highway, and shall be liable for all injuries either to person or property in consequence of the insufficiency of such bridge or embankment, to be recovered in an action on the case in any court of competent jurisdiction.

SEC. 2. If such railroad company or its assigns shall neglect to make all necessary repairs to such bridge, on request of a majority of the selectmen of the town in which such bridge is situate, the selectmen of such town may, from the funds of such town, make all necessary repairs to such bridge, and such railroad company and its assigns shall be liable to such town for the amount expended in making such repairs, and in case of non-payment, such town may recover the same of such railroad company or its assigns with costs, in an action on the case, in any court of competent jurisdiction.

Approved November 23, 1852.

No. 27 of 1852.

## AN ACT RELATING TO RAILROADS.

## SECTION

1. Railroad companies incorporated by this State may make contracts and arrangements with railroads incorporated under the authority of the government of Canada, for leasing and running; may hold lands or buildings in this or other States; may

## SECTION

purchase and hold personal property necessary and convenient for the purposes of this act, and also connect with each other.  
2. This act to take effect November 23, 1852.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows:*

SEC. 1. Section sixty-six of chapter twenty-six of the Compiled Statutes, shall be so construed as to authorize any railroad companies incorporated, or which may be incorporated, under the authority of this state, to make contracts and arrangements with railroad corporations incorporated under the authority of the Government of Canada, for leasing and running the roads of the respective corporations, or any part thereof, by either of their respective companies; and to contract for and hold in fee simple, or otherwise, lands or buildings in this or other states for depot purposes and storing freight; and also purchase and hold such personal property as shall be necessary and convenient for carrying into effect the object of this section; and such company may also have the right of connecting with each other upon such terms as shall be mutually agreed upon by the corporations interested in such connection.

SEC. 2. This act shall take effect from its passage.

Approved, November 23, 1852.

No. 46 of 1853.

# AN ACT RELATING TO THE DUTIES OF BAGGAGE MASTERS AND STATION AGENTS.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. It shall be the duty of all baggage masters and station agents on the railroads of this state to give checks, when requested to do so, to the owners of baggage when delivered to them for transportation from station to station ; and said checks shall be returned to the baggage master or station agent when he shall deliver said baggage to the owner or owners thereof ; and the railroad corporations, whose officers or servants shall refuse or neglect to comply with the requirements of this act, shall forfeit and pay into the treasury of this state the sum of ten dollars for each and every such neglect or offence, and they shall also be liable for all damages which may accrue in consequence of such neglect.

Approved, December 1, 1853.

No. 47 of 1853.

# AN ACT IN EXPLANATION OF SECTION FIFTY- ONE OF CHAPTER TWENTY-SIX OF THE COM- PILED STATUTES, ENTITLED "RAILROADS."

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. The words "passenger train," as used in section fifty-one of chapter twenty-six of the Compiled Statutes, shall not be construed to extend to a single passenger car accompanied by other cars named in said section.

SEC. 2. This act shall take effect from its passage.

Approved, December 5, 1853.



No. 28 of 1854.

# AN ACT IN RELATION TO THE SHARES OF RESIDENT AND NON-RESIDENT STOCKHOLDERS IN RAILROAD CORPORATIONS.

## SECTION

1. Clerks of R. R. Companies to certify to town clerks a list of resident stockholders, amount owned by each, &c., by April 1st, annually.
2. Clerks to certify to state treasurer names, &c., of non-resident stockholders, by April 1st, if such R. R. shall yield dividend of six per cent.
3. Railroads taxed one per cent. if such railroad yields six per cent. on such share. Shares liable to be distrained for payment of said tax.
4. In case of such distraining, such sale shall convey a legal title of the same.

## SECTION

5. Duties of president and directors of such corporations defined. In case of neglect of clerks, the corporation made liable.
6. Treasurers and clerks shall be residents of this state. No books or papers to be removed from the state, except in certain cases.
7. Treasurers and clerks fined in case of neglect to perform the provisions of this act.
8. Every R. R. corporation to certify to secretary of state, names of clerk, treasurer and place of business.
9. Fines—how recovered.
10. Act relating to shares of stockholders, passed 1853, repealed.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. It shall be the duty of the clerks of the several railroad corporations in this state, to certify annually to the clerks of the several towns in this state in which any stockholder of such corporation may reside, a true list of the names of all such stockholders, with the number of shares standing against the names of all such stockholders, on the books of such corporation, on the first day of April in each and every year hereafter, together with the amount paid in on each share.

SEC. 2. It shall be the duty of the clerks of the several railroad corporations in this state, to certify to the treasurer of this state, a true list of the names of all the stockholders in such corporation residing without this state, and the number of shares standing against the names of all such stockholders on the books of such corporation, together with the amount actually paid in on each share, on the first day of April, in each year hereafter. *Provided, however,* that no certificate as herein before required in the foregoing section of this act, shall be made by such clerks of said corporations, unless such railroad corporation shall earn, yield or receive an annual income, profit

or dividend of six per cent. or more, to the several stockholders therein.

SEC. 3. It shall be the duty of the treasurers of the several railroad corporations in this state, on or before the first day of August, annually, to pay, as a tax, into the treasury of this state, for the use of the people thereof, one per cent. on each and every share in any and every railroad corporation, which shall be owned by any person or persons residing without this state, whenever such railroad corporation shall earn, yield or pay, to the stockholders therein, an annual income, profit or dividend, of six per cent. or more, on each and every share of said stock; and said shares or stock shall be held liable to be distrained and disposed of by any collector of taxes in this state, on a warrant issued by the treasurer of this state, for that purpose, for the payment of said one per cent. tax as aforesaid, under such regulations as appertain to the collection of taxes on bank stock, or shares of persons residing without this state.

SEC. 4. In case of the distraining and selling of any railroad stock or shares for the payment of said tax or taxes, in pursuance of the provisions of this act, such sale shall have the legal effect to convey a legal and valid title to the purchaser or purchasers of such stock or shares, so distrained and disposed of.

SEC. 5. It shall be the duty of the president, directors, and company of any and every railroad corporation in this state, to cause the several clerks and treasurers of their respective corporations to faithfully discharge the several duties imposed upon them, as aforesaid, by the preceding sections of this act; and any failure on the part of such clerks and treasurers to discharge the duties imposed upon their several corporations, as aforesaid, shall be deemed to be a failure on the part of the corporation, whose clerk or treasurer is guilty of such neglect; for which failure, said corporations, in their several corporate capacities, and their several directors, shall individually be held responsible to the treasurer of this state.

SEC. 6. The treasurer and clerk of every railroad corporation within this state, shall be residents of this state, and the offices of the treasurers and clerks, and all books and papers pertain-

ing to said offices of treasurers and clerks of said railroad corporations, shall at all times be kept within this state, except said books and papers be temporarily moved and detained without the limits of this state by order of a judge of the supreme court of this state, for the purpose of being used in evidence in suits actually pending in a neighboring state, and in such case to be detained during the term of court at which such suit is to be tried.

SEC. 7. In case said treasurers or clerks or any of them, belonging to, or doing business for, said corporations, or any one of them, shall, for the space of ten days, after the time specified in sections one, two and three of this act, for the discharge of the several duties therein pointed out, neglect or refuse in good faith to discharge said duties so imposed by this act, then they, the several clerks or treasurers, or any or each of them, who shall be guilty of such neglect for the space of time aforesaid, shall forfeit and pay to the treasurer of this state a fine of five hundred dollars, for the use of this state, for the first offence so committed, and a further fine of one hundred dollars per day for every day they, or either of them, shall be guilty of such neglect thereafter.

SEC. 8. It shall be the duty of each and every railroad corporation of this state, on the first day of January of every year hereafter, to lodge with the secretary of state the names of its clerk and treasurer, and their place of business within this state.

SEC. 9. All fines and forfeitures provided for in this act, shall be recovered in an action on the case, upon this statute, to be commenced and prosecuted in any county in this state, in the name and behalf of the treasurer of this state, who is hereby authorized to prosecute the same.

SEC. 10. An act entitled "an act relating to the shares of resident and non-resident stockholders in railroad corporations," approved December 6, 1853, is hereby repealed.

Approved, November 14, 1854.

No. 29 of 1854.

AN ACT RELATING TO SERVICE OF PROCESS ON  
NON-RESIDENT TRUSTEES OF RAILROAD COR-  
PORATIONS.

*It is hereby enacted by the General Assembly of the State of Ver-  
mont, as follows :*

SEC. 1. The trustees, under any assignment, mortgage, or other transfer, made and executed by any railroad company in this state, and any lessee or lessees of any such railroad company not resident in this state, who shall hold possession of the property of such railroad company, or manage the running of the road of such company, under, and by virtue of such assignment, mortgage, lease, or other transfer, shall, in case they reside without this state, appoint one person resident in this state, upon whom service of every kind of process, known to the laws of this state, may at any time be made ; and shall, in the month of January in each year, file in the office of the clerk of the county court in every county, through which such road shall pass, a certificate signed by such trustees or lessees, designating the name and place of residence of the person thus appointed ; and all such service of process upon said person so appointed, shall be a legal service of the same on such trustees or lessees ; and if such trustees or lessees shall neglect to appoint such agent, and file such certificate, the leaving, with any station agent, or depot master, in the employment of such trustees or lessees, of a copy of any legal process against such trustees or lessees, by any proper officer, shall be deemed legal service of such process upon such trustees or lessees, and shall have the same effect, as though personal service of such process had been made upon such trustees or lessees.

Approved November 14, 1854.

No. 30 of 1854.

AN ACT TO AMEND SECTIONS SIXTY-EIGHT AND  
SIXTY-NINE OF THE COMPILED STATUTES,  
RELATING TO RAILROAD CORPORATIONS.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows:*

SEC. 1. The provisions of sections sixty-eight and sixty-nine of chapter twenty-six of the compiled statutes, relating to railroad corporations, shall be construed, and in all cases shall be treated, as extending to all mortgagees, trustees, assignees, or other persons controlling, or having control of, any railroad corporation of this state.

SEC. 2. This act shall take effect from its passage.

Approved November 13, 1854.

No. 25 of 1855.

# AN ACT TO PREVENT OBSTRUCTIONS AT RAILROAD CROSSINGS.

## SECTION

1. Imposing fine for obstructing sight of cars at highway crossings.

## SECTION

2. Imposing fine for not removing said obstruction after notice.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. If any person shall leave or deposit any wood, lumber or other material, on the line of any railroad or highway in this state, at or near the crossing of any highway, in such manner as to prevent or obstruct a sight of the cars when approaching said highway crossing, the person so offending, shall be subject to a fine of not less than five nor more than fifty dollars.

SEC. 2. If any person shall neglect or refuse to remove said obstruction, after notice has been given to such person by one or more of the selectmen of the town in which said crossing is situated, the person so offending shall be subject to the same penalty as is provided in the first section of this act, for every twenty-four hours such obstruction is suffered to remain there-after, which fine shall be for the benefit of the town in which such offence is committed.

SEC. 3. This act shall take effect from its passage.

Approved November 12, 1855.

No. 28 of 1855.

AN ACT IN ADDITION TO CHAPTER TWENTY-SIX  
OF THE COMPILED STATUTES, IN RELATION  
TO RAILROADS.

## SECTION

1. Providing for appointment of railroad commissioner.
2. Salary of said commissioner and penalty for receiving extra pay.
3. Duties of said commissioner.
4. Penalties for obstructing said commissioner in executing his duties.
5. To make report of condition, &c. of roads.
6. Power of commissioner—further penalty for impeding, &c.

## SECTION

7. Penalty for making false returns to said commissioner.
8. Report whether corporations have exceeded legal powers, and may recommend amendments in existing laws.
9. Taxation of road to pay commissioner.
10. Relating to injuries sustained on railroads.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. One person who is not a stockholder, officer, trustee, assignee, or lessee, under any railroad corporation, shall be annually appointed by the judges of the supreme court, to be styled the *Railroad Commissioner*, who shall be sworn to the faithful performance of his duty. He shall hold his office and execute the duties thereof as provided in this act until his successor shall be appointed, and in case of a vacancy by death, removal, resignation or otherwise, the judges of the Supreme Court shall fill the same.

SEC. 2. Said Commissioner shall be entitled to the annual salary of one thousand dollars and his expenses while engaged in the duties of his office, which is to be paid by the Treasurer of the State; and if such Commissioner shall directly or indirectly receive any compensation or pay for any service, or extra service, or neglect of service, other than is provided in this act, from any one but said Treasurer, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, in the discretion of the Court.

SEC. 3. The said Commissioner shall, from time to time, carefully examine and inspect the condition of each Railroad in this State, and learn its state of repair and sufficiency, and that of its carriages, engines, furniture and equipage, and the man-

ner of its conduct and management for the public safety, and shall annually report the same to the General Assembly.

SEC. 4. Every person, who shall willfully obstruct, hinder or impede said Commissioner in the execution of the duties of his office, shall be subject to conviction and punishment therefor in the same way as is provided by law for the punishment of hindering and impeding officers, judicial or executive, in execution of their offices under the authority of this State.

SEC. 5. Said Commissioner shall examine and report annually the existing pecuniary condition and financial management of each and every Railroad in this State for the current year, showing the true pecuniary condition of said Railroad. Such report shall include the amount of receipts and expenditures of said road for the year, and from what sources said receipts were derived, and for what said expenditures were made; also the outstanding debts and liabilities against said road, and the nature thereof, all claims and debts due said road, and the probable availability thereof; the names and compensation of all persons employed by said road and the nature of their service, together with the condition of said road and its equipments and property, as herein before provided.

SEC. 6. To enable said commissioner to perform said service, and to make said report, instead of the reports provided for in section seventy-two of chapter twenty-six of the Compiled Statutes, the directors, assignees, trustees or other officers and persons in the management of each railroad, shall annually make to the said commissioner, under oath, such returns, and in such form, and at such time as he shall prescribe and make known to them. And each and every person so required, who shall refuse or neglect to make such return, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be subject to fine and imprisonment as herein before provided in the second section of this act.

And said commissioner shall have power for the purpose aforesaid to examine any of the books, papers, or documents of the corporation or its directors, treasurer or officers, and those of the assignees or trustees, or persons in the direction or control of said road, and also under oath to examine any of said persons or their employees or other persons. He is empowered to issue subpoenas and administer oaths in the same manner and with the same power to enforce obedience thereto, in performance of his said



duties, as belong and pertain to courts of law in this state. And any person refusing access by said commissioner to such papers, or any director, trustee, or assignee, lessee or other officer, clerk or employee of said road who shall obstruct said access or refuse to furnish any information required by said commissioner in discharge of his duty, shall be deemed guilty of a misdemeanor, and shall be liable on conviction to fine and imprisonment as hereinbefore provided in the second section of this act.

SEC. 7. If any person in making any such returns to said commissioner as herein provided, or in furnishing information or making statement to him on oath, when by him required, shall be guilty of willful falsehood or suppression of truth, he shall be deemed guilty of perjury and punished accordingly.

SEC. 8. Said commissioner shall report to the General Assembly whether any railroad corporation has, within the year previous, exceeded its legal powers or in any way incurred a forfeiture of its franchises, that proceedings may be taken therefor. And shall also report what further legal provisions should, in his opinion, be adopted in relation to railroads.

SEC. 9. The amount of the salary and expenses of said commissioner shall be audited and allowed on proper vouchers by the auditor of accounts, and be paid by the treasurer of the state, and said amount shall be equitably apportioned by said treasurer to the several railroad companies according to the time employed by said commissioner, and the amount of expense by him incurred for them, severally, in pursuance of this act; and said proportional part so determined by said treasurer, shall be paid him on demand for the benefit of the state by each of said railroad companies, their directors or the persons in the actual direction and control or use of said road respectively; and in default of such payment the treasurer may and shall issue his warrant to any sheriff of any county in the state for the collection thereof, who shall collect the same out of the goods and chattels of said railroad company, and any engines, cars or other articles in use on said road, by the persons managing, using or conducting said road, and which have at any time been owned by said corporation or person, shall be deemed and taken to be the property of said company for this purpose, and be subject to be taken and sold by virtue of said warrant by said sheriff in the same manner as personal property is taken and sold on execution.

SEC. 10. When any injury to the property or person of another

shall be sustained through the default of a railroad corporation, or other person having the control or management of a railroad, their agents or employees, the cars, engines and all other property which, at the time of such injury, shall be subject to use in the running and management of said road, and which have at any time been owned by said corporation or other person, shall be deemed to be the property of said corporation, or other party or person having the control and management of said road, for the purpose of furnishing indemnity for such injury, and may be attached and levied upon as such at the suit of the party injured.

Approved November 14, 1855.

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No. 27 of 1855.

#### AN ACT RELATING TO THE LANDS OF RAILROAD CORPORATIONS.

*It is hereby enacted by the General Assembly of the State of Vermont as follows :*

SEC. 1. No person shall hereafter acquire a title to any lands belonging to any railroad corporation in this state by reason of any adverse possession thereof of more than fifteen years : *Provided*, that this act shall not refer to any lands of any railroad corporation except where such lands lie within the limits of the roadway of such corporation as recorded in the town clerk's office of the towns wherein such lands lie.

Approved November 14, 1855.

## AN ACT RELATING TO RAILROAD CORPORATIONS.

## SECTION

1. Duties of railroads in relation to, and liability for, damage occurring at crossings.
2. Liability of assignees, lessees, and trustees.

## SECTION

3. Selectmen may require repairs, and in default may cause repairs to be made.
4. This act not to affect contracts.

*It is hereby enacted by the General Assembly of the State of Vermont as follows :*

SEC. 1. When any railroad corporation in this state shall have constructed a railroad across any public highway, either by passing upon, over or under the traveled path of such highway, such corporation shall, at all times, keep in good and sufficient repair, and rebuild, when necessary, all bridges, culverts, crossings and other constructions which have been or shall hereafter be made, for the accommodation, safety and convenience of the public travel on such highway, over, under or upon such railroad. And any railroad corporation which has, or shall hereafter, so construct a railroad across any highway, as aforesaid, shall be liable to the town within whose limits such crossings shall be, for any damage or injury that shall accrue by reason of their not complying with the terms and provisions of this act, to be recovered in any proper action brought therefor.

SEC. 2. Any person or persons, having the possession of, control, or management of any such railroad, or of the engines and cars running thereon, either as lessees, assignees or trustees, or in any other capacity, shall perform the same duties and be subject to the same liabilities, to be enforced in the same manner as is provided in the first section of this act in the case of the railroad corporation.

SEC. 3. If the selectmen, or persons acting in a like capacity, in any town or city in this state in which any such crossing may be, shall at any time be of the opinion that such bridge, culvert, crossing or other constructions require repairing or rebuilding in order to be safe for travel thereon, they may notify the person or persons whose duty it is made by this act to repair or rebuild the same thereof, by leaving a written notice to that effect with either the person acting as president or the superintendent of such road, or the clerk of said corporation. And if such person or persons shall neglect to repair or rebuild the same for the period

of one month after the notice aforesaid, the same town or city may repair or rebuild the same and recover the expense thereof of such person or persons, in an action of general assumpsit for work and labor done, together with costs of suit.

SEC. 4. Nothing in this act shall be so construed as to interfere with any express contract which has been, or may hereafter be, made between any railroad corporation or other persons herein referred to, and any town or city, relative to the keeping in repair or rebuilding of any such bridge, culvert, crossing or other construction.

SEC. 5. This act shall take effect from its passage.

Approved October 29, 1855.

No. 29 OF 1855.

AN ACT IN ADDITION TO CHAPTER TWENTY-THREE OF THE COMPILED STATUTES, ENTITLED "RAILROADS," PROVIDING FOR THE DISPOSITION OF UNCLAIMED BAGGAGE.

SECTION

- 1 Time baggage must be unclaimed, and proceedings at expiration of said time; may be sold at auction
2. Sheriff to give notice of sale, terms of notice.

SECTION

- 3 Sheriff to make return to state treasurer.
4. Duties of the state treasurer in relation thereto.
5. When to take effect.

*It is hereby enacted by the General Assembly of the State of Vermont as follows:*

SEC. 1. If any trunk, valise, carpet-bag, or other article of personal baggage, brought upon any railroad in this state, shall remain for a period of six months in any depot or warehouse of any railroad corporation in this state, and when the owner or consignee thereof shall have been notified that said property is at such depot or warehouse, and shall have refused to take the same away, and pay all legal charges thereon, or when the owner or consignee is unknown, the operators of said road may cause the said property to be opened and examined by the sheriff of the county in which it so remains, and if, upon such examination, it shall be ascertained who the owner or consignee is, the said operators shall notify the said owner or consignee, if his place of residence be known, of the place where said property is; and if he shall neglect for the period of one month thereafter to claim

and take away such baggage, or when the owner or consignee shall not be ascertained, or his residence not known, such baggage, and the contents thereof, may be sold by the sheriff in the manner hereinafter provided.

SEC. 2. Such sheriff shall sell such property at public auction, and shall give notice of such sale, by publication in some newspaper printed in the town or county where such property shall so remain unclaimed, three weeks successively, the last of which publications shall be not less than four weeks previous to such sale; and if there be no newspaper printed in such county, such publication shall be made in some newspaper printed in an adjoining county. Such advertisement shall state the time and place of sale, the place where such property was received, a description of said property, the marks upon the articles to be sold, the time when received, the place whence sent when known, and the names of the owners or consignees when known.

SEC. 3. If the owner or consignee shall not claim said property, and pay all legal charges thereon, and for advertising the same, before the day of sale, the sheriff shall proceed to sell said property and shall make a return of said sale, together with a list of the property so sold as aforesaid, and a copy of the advertisement describing such property, within twenty days after such sale, to the treasurer of this state, with his affidavit of the truth of such return. Such sheriff shall also return to the treasurer of the state, all papers, notes, drafts, moneys or other valuables of similar nature, which shall be found in such baggage, which, together with all moneys arising from said sale, after deducting all legal charges thereon, and the charges and expenses of said sale, shall be kept by said treasurer for the benefit of the owner or consignee of such baggage, and shall be paid to him on producing satisfactory evidence of his right.

SEC. 4. The state treasurer shall keep a true minute of the time when such moneys, notes, drafts, or other valuables, and the avails of such sale, shall be received, and if the same shall remain in his office unclaimed by the owner or consignee thereof, for the space of two years after they are so received, such property shall become the property of the state, and shall be disposed of by the state treasurer for the benefit of the state.

SEC. 5. This act shall take effect from its passage.

Approved, November 14, 1855.

No. 29 of 1856.

# AN ACT IN REGARD TO MORTGAGES BY RAIL- ROAD CORPORATIONS.

## SECTION

1. Railroad franchises, &amp;c., may be mortgaged.

## SECTION

2. Such mortgages not to prevent the cars, &amp;c., from being attached and sold on liabilities of Railroads as common carriers

*It is hereby enacted by the General Assembly of the State of Vermont, as follows :*

SEC. 1. All mortgages of railroad franchises, furniture, cars, engines, and rolling stock of any kind, when properly executed and recorded, shall be effectual to vest in the mortgage a valid mortgage interest in, and lien upon all such property, without delivery or change of possession ; and for the purpose of mortgage, all such property shall be deemed part of the realty.

SEC. 2. Nothing in this act contained shall prevent such furniture, cars, engines, and rolling stock from being attached by any person having a claim against the corporation owning such property, for an injury sustained on the road of said corporation, by reason of any neglect of said corporation, or for services rendered, or materials furnished for the purpose of keeping said road in repair or in running the same, or for any liabilities as common carriers, or for the loss of any property while in the possession of said corporation ; and such property, when so attached, may be taken, held and disposed of in the same manner as though this act had not been passed.

SEC. 3. This act shall take effect from its passage.

Approved, November 18, 1856.

No. 30 of 1856.

AN ACT RELATING TO THE APPOINTMENT AND  
DUTIES OF THE RAILROAD COMMISSIONER.

## SECTION

1. Appointment of railroad commissioner and term of office.

2. Repeals sec. 7 of the act to which this is an amendment.

## SECTION

3. Duties of Commissioner.

4. When act to take effect.

*It is hereby enacted by the General Assembly of the State of Vermont, as follows:*

SEC. 1. One person who is not a stockholder, officer, trustee, assignee or lessee, under any railroad corporation, shall be annually appointed by the Senate and House of Representatives in joint assembly, to be styled the *Railroad Commissioner*, who shall be sworn to the faithful performance of his duty. He shall hold his office and execute the duties thereof, as provided in the act to which this is an amendment, until his successor shall be appointed. And in case of a vacancy by death, removal, resignation, or otherwise, the Governor shall fill the same.

SEC. 2. Section one of the act to which this is an amendment is hereby repealed.

SEC. 3. The commissioner shall inquire into and report any neglect or infringement of the laws for the regulations of railroads in this state by officers, employees, or agents of such roads.

SEC. 4. This act shall take effect from the second Thursday of October, A. D. 1857.

Approved, November 18, 1856.

VTColl

Revised

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